PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
RENUMBERING, AMENDING AND CREATING
A RULE

Office of the Commissioner of Insurance

Rule No. Agency 145 – Ch. Ins 52

The Commissioner of Insurance proposes an order to renumber Ins 52.01 (1); to amend Ins 52.01 (intro.), 52.02 (3) (intro.), (4m) (a) 3. g. and 5. d., (4m) (e), 52.05 (2) (k) (intro.), 52.07 (1) (intro.) and (2) to (5); and to create Ins 52 Subch. I (title), 52.005, 52.01 (1g), (4) and (5), 52.02 (4m) (a) 3. c. (Note) and 5. b. (Note), 52.02 (4r), 52 Subch. II, and 52 Appendices C to H, relating to credit for reinsurance accreditation amendments.

The statement of scope for this rule SS: 125-20 was approved by the Governor on September 2, 2020, published in Register No. 777A1, on September 2, 2020, and approved by the Commissioner on September 29, 2020.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. **Statutes interpreted:**

   Wisconsin Statutes ss. 620.03, 620.21, 620.22, 623.02, 623.04, 623.06, 623.15, 623.21, 623.32 and 627.23.

2. **Statutory authority:**

   Wisconsin Statutes ss. 601.42 (1g), 601.41 (3) and 627.23.

3. **Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

   Wisconsin Statutes ss. 620.03, 620.21, 620.22, 623.02, 623.04, 623.32, generally regulate how insurers account for assets and liabilities. Wisconsin Statute s. 627.23, specifically authorized insurers to accept reinsurance and states "[s]ubject to rules promulgated by the commissioner for calculation of its reserves and its surplus, and subject to sub. (3), an authorized insurer may also cede reinsurance to an unauthorized insurer." The proposed rule regulates how an insurer may take credit for reinsurance to an unauthorized insurer authorized by s. 627.23, Stats.

   The authority for the requirements for credit for reinsurance involving term and universal life reserve financing arises from ss. 623.15 and 623.21, Stats., that establish accounting and reserve requirement for all insurers authorized to do business in this state. Wisconsin Statutes ss. 601.42 (1g) and 623.04, authorize the commissioner to "promulgate rules specifying the liabilities required to be reported by insurers in the financial statements submitted under s. 601.42 (1g) (a), and the methods shall be consistent with s. 623.06."

4. **Related statutes or rules:**

   None.

5. **The plain language analysis and summary of the proposed rule:**

   The proposed rule would modernize Wisconsin's credit for reinsurance provisions by aligning them with the federal Nonadmitted and Reinsurance Reform Act and by adopting the most recent

amendments to the National Association of Insurance Commissioners ("NAIC") model act and model regulation on which Wisconsin's rules are based. These revisions are also an accreditation requirement by the NAIC.

The NAIC is a standard setting regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and U.S. territories. It develops model laws and regulations using a committee structure that includes both member of the committee and interested regulators. The NAIC also provides an accreditation process for state insurance departments. Accreditation of the Office of the Commissioner of Insurance (OCI) by the NAIC helps Wisconsin insurers by ensuring that OCI has full regulatory authority over its domestic insurers, it accomplishes this by subjecting domestic insurers to financial regulation only by their domestic commissioner if the state is accredited. Because Wisconsin is accredited, Wisconsin insurers are not subject to separate financial regulation in every state in which they do business.

On September 22, 2017, the United States and the European Union signed the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*, ("covered agreement") which has entered into force. On December 11, 2018, the United States and the United Kingdom signed the *Bilateral Agreement between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance*. The covered agreement was authorized by Title V of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* ("Dodd-Frank") which authorized the Secretary of the Treasury and the United States Trade Representative to jointly negotiate a covered agreement on behalf of the United States with one or more foreign governments, authorities, or regulatory entities. The covered agreement requires states to implement the reinsurance collateral provisions or face federal preemption by the Federal Insurance Office ("FIO") under Dodd-Frank, which provides that a state insurance measure shall be preempted to the extent that the Director of FIO "determines" that the measure is inconsistent with the covered agreement and results in less favorable treatment of a non-U.S. insurer domiciled in a foreign jurisdiction that is subject to a "covered agreement" than a U.S. insurer domiciled, licensed, or otherwise admitted in that state. A "covered agreement" under Dodd-Frank is an agreement entered into between the U.S. and foreign government(s) on prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for consumers that is "substantially equivalent" to the level of protection under state law.

To prevent preemption under Dodd-Frank requires the state insurance measure to be "consistent" with the covered agreement which may be interpreted as a higher standard. States are recommended to adopt the 2019 revisions in as close to identical form to the models in order to best avoid the possibility of federal preemption. FIO considers the 2019 Model Law and Regulation to provide a basis for U.S. States to revise their credit for reinsurance measures for purposes of achieving consistency with the covered agreements and avoiding a potential preemption determination under the FIO Act. FIO recently provided a public statement on Preemption Analysis: https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/covered-agreements/preemption-analysis. Specifically, "FIO considers the 2019 Model Law and Regulation to provide a basis for U.S. States to revise their credit for reinsurance measures for purposes of achieving consistency with the Covered Agreements and avoiding a potential preemption determination under the FIO Act… FIO will focus on differences from the text of the 2019 Model Law and Regulation in considering whether a U.S. State credit for reinsurance measure may be inconsistent with the Covered Agreements and therefore subject to potential preemption under the FIO Act."

The OCI has been regulating reinsurance credits to any reinsurance ceded under agreements entered into or renewed on or after August 1, 1993, as identified at s. Ins 52.07. As to the specific changes in chapter Ins 52, Wis. Adm. Code, in newly created Subchapter I, the modifications provide that non-U.S. jurisdictions that are subject to an in-force covered agreement with the United States, each within its legal authority, or in the case of a covered agreement between the United States and European Union, is a member state of the European Union, shall be recognized as a reciprocal jurisdiction. In addition, the commissioner could deem other non-U.S. jurisdictions that meet certain criteria as reciprocal jurisdictions. The proposed changes modernize Wisconsin's credit for reinsurance provisions to align them with requirements of the covered agreement regarding insurance and reinsurance.

The amendments proposed by this rule introduce the concept of reciprocal reinsurers consistent with the NAIC model law and regulation. Reinsurers from certain foreign jurisdictions could be recognized by the commissioner as reciprocal reinsurers if they meet stringent capitalization and solvency requirements. The revisions serve to reduce reinsurance collateral requirements for currently certified non-U.S. licensed reinsures that are licensed and domiciled in qualified jurisdictions. The collateral requirement for reinsurance ceded to reciprocal reinsurers by domestic insurers would be $0. The changes serve to provide regulators with an effective method of monitoring the reinsurance activities of U.S. companies. U.S. primary insurance companies may be given reinsurance credit on their statutory financial statements for insurance risk they transfer via reinsurance that meets the legal and accounting risk transfer requirements and other relevant laws. Both the 2011 revisions to the credit for reinsurance models, which served to reduce reinsurance collateral requirements for certified reinsurers domiciled in qualified jurisdictions, and the 2019 revisions with respect to reciprocal jurisdictions, address the reinsurance collateral requirements necessary for U.S. ceding companies to take credit for certain reinsurance transactions.

The proposed Subchapter II changes establish standards governing certain reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees. The proposed rule will bring Wisconsin's requirements into alignment with other states and meet a NAIC accreditation requirement. No Wisconsin-domiciled insurers are currently engaged in the financing arrangements addressed by the rule. However, should that change, the rule would ensure that, with respect to each such financing arrangement, funds would be held by or on behalf of the ceding insurers in the forms and amounts prescribed in the rule. The requirements apply to reinsurance ceded to a captive insurer or special purpose vehicle, reinsurers that materially deviate from statutory accounting or risk-based capital rules. The revisions do not apply to licensed, accredited, or certified reinsurers or reinsurers that meet the reciprocal jurisdiction qualifications. The revisions also contain a professional reinsurer exemption for reinsurers that maintain at least $250 million in capital and surplus as determined using the NAIC accounting practices and procedures manual, including all amendments adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is licensed in at least 26 states or licensed in at least 10 state and licensed or accredited in a total of at least 35 states.

Regulators need to be able to assess and monitor the risks posed with respect to captive reinsurance transactions, and the regulatory process is enhanced through uniform application by regulators when reviewing these transactions. This rule change would align Wisconsin's regulation with the NAIC model and the regulations of other states.

In general, reinsurance ceded for reserve financing purposes has one or more of the following characteristics: some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer (1) are issued by the ceding insurer or its affiliates; or (2) are not unconditionally

available to satisfy the general account obligations of the ceding insurer; or (3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any if its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty). The proposed rule would require that in order to take credit for reinsurance ceded with respect to each such financing arrangement, security must be held by or on behalf of a ceding insurer. The rule prescribes the actuarial method to be used to determine the amount of primary security, and that other security, as defined in the rule, must be held equal to any portion of the statutory reserves as to which primary security is not held.

6. **Summary of, and preliminary comparison with, any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no federal regulations which address these activities.

7. **Comparison of similar rules in adjacent states as found by OCI:**

Laws and Rules related to Requirements for Credit for Reinsurance:

Illinois: Legislation instructed: IL Senate Bill 2411 Enrolled 6/25/2021

Iowa: Iowa Code §§ 521B.101A to 521B-105 (2021) and Iowa Admin Code r. 5.33 and 112.7 (1) "e" (2021)

Michigan: Mich. Comp. Laws §§ 500.1103 and 500.1106.

Minnesota: Legislation introduced: MN HF 6, 2021 1st Special Session (2021)

Laws and Rules related to Term and Universal Life Reserve Financing:

Illinois: None.

Iowa: Iowa Code §§ 521B.102, 521B.103 (2017), and 521B-105 and Iowa Admin Code r. 191-112.1 to 112.9 (2017)

Michigan: None.

Minnesota: None

8. **A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

OCI based this rule on the model law and regulations that were adopted by NAIC and have been enacted or will likely be enacted by all accredited jurisdictions in the United States and Territories. Failure to adopt the NAIC model law and regulation may result in OCI being preempted to regulate certain transactions.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

This rule will have little or no effect on small businesses. This rule will reduce the collateral requirements of certain reinsurers with at least $250 million in capital so it would not affect small businesses. There may be some insurers that qualify as small businesses who cede risk to reinsurers but the rule is not expected to have any effect on their ability to take credit for reinsurance ceded and could make it easier to do business with a reinsurer.

10. A description of the Effect on Small Business:

This rule will reduce the collateral requirements of certain reinsurers with at least $250 million in capital so it would not affect small businesses. There may be some insurers that qualify as small businesses who cede risk to reinsurers but the rule is not expected to have any effect on their ability to take credit for reinsurance ceded and could make it easier to do business with a reinsurer.

11. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the web site at: **https://oci.wi.gov/Pages/Regulation/RulesCurrentlyPending.aspx** or by contacting Karyn Culver at:

Phone: (608) 267-9586
Email: karyn.culver@wisconsin.gov
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

12. Place where comments are to be submitted and deadline for submission:

Persons wishing to testify or provide oral or written comments regarding the proposed administrative rule may appear during the hearing. Additionally, the rule may be reviewed and comments made at https://docs.legis.wisconsin.gov/code or sent to the following:

The deadline for submitting comments is 4:00 p.m. on the **October 1, 2021**.

Written comments can be mailed or hand-delivered to:

Julie Walsh
Legal Unit - OCI Rule Comment for Rule Ins 52
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703-3474

Email address:

Julie.walsh@wisconsin.gov

For additional information please contact Julie Walsh at Julie.Walsh@wisconsin.gov

---

The proposed rule changes are:

SECTION 1. Ins 52 Subchapter I (title) (precedes s Ins 52.005) is created to read:

SUBCHAPTER I

REQUIREMENTS FOR CREDIT FOR REINSURANCE

SECTION 2. Ins 52.005 is created to read:

Ins 52.005 Purpose and intent. The purpose of this subchapter is to protect the interest of insureds, claimants, ceding insures, assuming insurers, and the public generally. The intent is to ensure adequate regulation of insurers and reinsurers, and adequate protection for those to whom they owe obligations. In furtherance of this interest, the commissioner hereby provides that upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this subchapter, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. This subchapter sets forth rules and procedural requirements that the commissioner deems necessary to carry out the provisions of this subchapter. The actions and information required by this subchapter are declared to be necessary and appropriate in the public interest and for the protections of the ceding insurers in this state. The commissioner further declares that the matters contained in this subchapter are fundamental to the business of insurance in accordance with 15 USC 1011-1012.

SECTION 3. Ins 52.01 (intro.) is amended to read:

Ins 52.01 Definitions. In this ~~chapter~~ subchapter, unless the context otherwise requires:

SECTION 4. Ins 52.01 (1) is renumbered (1m).

SECTION 5. Ins 52.01 (1g), (4), and (5) are created to read:

Ins 52.01 (1g) "Covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 USC 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(4) "Reciprocal Jurisdiction" is a jurisdiction, as designated by the commissioner, that meets one of the following conditions:

(a) A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union.

(b) A United States jurisdiction that meets the requirements for accreditation under the financial standards and accreditation program of the national association of insurance commissioners.

(c) A qualified jurisdiction, as determined by the commissioner pursuant to s. Ins 52.02 (4m) (c), and which is not otherwise described in pars. (a) or (b) of this subsection, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner, and which meets all of the following additional requirements:

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

2. Does not require a United States-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-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance.

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

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

(5) "Solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

SECTION 6. Ins 52.02 (3) (intro) is amended to read:

Ins 52.02 (3) The reinsurer is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance which the commissioner determines equal or exceed the standards applicable under this ~~chapter~~ subchapter and the reinsurer or United States branch of an alien reinsurer:

SECTION 7. Ins 52.02 (4m) (a) 3. c. (Note) is created to read:

Ins 52.02 (4m) (a) 3.c. (Note) **Note:** Forms CR-F and CR-S are published as Chapter Ins 52 Appendices D - H.

SECTION 8. Ins 52.02 (4m) (a) 3. g. is amended to read:

Ins 52.02 (4m) (a) 3. g. For certified reinsurers not domiciled in the U.S., audited financial statements ~~on a U.S. GAAP basis,~~ regulatory filings, and actuarial ~~opinions~~ opinion (as filed with the non-U.S. jurisdiction supervisor with a translation into English). ~~Audited IFRS basis statements are allowed in lieu of a U.S. GAAP basis statement if they include an audited footnote reconciling equity and~~

~~net income to a U.S. GAAP basis, or, with the commissioner's approval, audited IFRS basis statements with reconciliation to U.S. GAAP certified by an officer of the company.~~ Upon initial application for certification, the commissioner shall consider audited financial statements for the ~~previous three~~ last two years filed with its non-U.S. jurisdiction supervisor~~.~~;

SECTION 9. Ins 52.02 (4m) (a) 5. b. (Note) is created to read:

Ins 52.02 (4m) (a) 5. b. (Note) **Note:** Forms CR-F and CR-S are published as Chapter Ins 52 Appendices D - H.

SECTION 10. Ins 52.02 (4m) (a) 5. d. is amended to read:

Ins 52.02 (4m) 5. d. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor with a translation into English). Upon the initial certification, audited financial statements for the last ~~three~~ two years filed with the certified reinsurer's supervisor. ~~Audited financial statements should be provided on a U.S. GAAP basis if available. Audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with permission of the commissioner, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company.~~

SECTION 11. Ins 52.02 (4m) (e) is amended to read:

Ins 52.02 (4m) (e) A certified reinsurer that ceases to assume new business from ceding insurers domiciled in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this ~~chapter~~ subchapter, and the commissioner shall assign a rating that takes into account the reasons why the reinsurer is not assuming new business.

SECTION 12. Ins 52.02 (4r) is created to read:

Ins 52.02 (4r) The reinsurance is ceded to an assuming insurer that has been recognized by the commissioner as a reinsurer in a reciprocal jurisdiction.

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

1. The assuming insurer shall be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

2. The assuming insurer shall 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 subd. 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, the minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least $250,000,000; and, a central fund containing a balance of the equivalent of at least $250,000,000.

3. The assuming insurer shall 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 s. Ins 52.01 (4) (a), the ratio specified in the applicable covered agreement;

b. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in s. Ins 52.01 (4) (b), a risk-based capital ratio of 300% of the authorized control level, calculated in accordance with the formula developed by the national association of insurance commissioners; or

c. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in s. Ins 52.01 (4) (c), after consultation with the reciprocal jurisdiction and considering any recommendations published through the national association of insurance commissioners committee process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

4. The assuming insurer shall agree to submit and provide adequate assurance, in the form of a properly executed Form RJ-1, of its agreement to the following:

Note: Form RJ-1 is published as Chapter Ins 52 Appendix C.

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

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

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

d. Each reinsurance agreement shall 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 this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide 100% security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of s. Ins 52.02 (4m) or s. Ins 52.04.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subd. 5.

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

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

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

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

d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subd. 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 commissioner;

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 which are not in dispute, but are overdue by 90 days or more, exceeds $50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in subd. 2. and 3.

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

(b) The commissioner shall timely create and publish electronically a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the national association of insurance commissioners committee process. The commissioner's list shall include any reciprocal jurisdiction as defined at s. Ins 52.01 (4) (a) and (b) and shall consider any other reciprocal jurisdiction included on the national association of insurance commissioners list. The commissioner may approve a jurisdiction that does not appear on the national association of insurance commissioners list of reciprocal jurisdictions as provided by applicable law, regulation or in accordance with criteria published through the national association of insurance commissioners committee process.

2. The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by appliable law, regulation, or in accordance with a process published through the national association of insurance commissioners committee process, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under s. Ins 52.01 (4) (a) or (b). Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this subchapter

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

1. If a national association of insurance commissioners accredited jurisdiction has determined that the conditions set forth in par. (a) have been met, the commissioner has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept

financial documentation filed with another national association of insurance commissioners accredited jurisdiction or with the national association of insurance commissioners in satisfaction of the requirements of par. (a).

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

Note: Form RJ-1 is published as Chapter Ins 52 Appendix C.

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

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 s. Ins 52.04.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of s. Ins 52.04.

(e) Before denying statement credit or imposing a requirement to post security with respect to par. (d) or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in par. (a)

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

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

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

(f) 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.

(g) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this subchapter or other applicable law or regulation.

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

1. This paragraph does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this subchapter.

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

3. Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

SECTION 13. Ins 52.05 (2) (k) (intro.), 52.07 (1) (intro.), and (2) to (5) are amended to read:

Ins 52.05 (2) (k) (intro.) Notwithstanding other provisions of this ~~chapter~~ subchapter, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, and where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may, notwithstanding any other conditions in this ~~chapter~~ subchapter, provide that the ceding insurer agrees 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:

52.07 (1) This ~~chapter~~ subchapter applies to determine whether credit may be taken for:

(2) Section Ins 6.73 continues to apply for the purpose of determining whether credit may be taken for reinsurance which is not subject to this ~~chapter~~ subchapter under sub. (1).

Note: Ins 6.73 was repealed eff. 8-1-93.

(3) This ~~chapter~~ subchapter and ch. Ins 55 are in addition to and do not limit the commissioner's authority under s. 618.21 (1) (a), 618.23 (1) (a), 618.26 (1) (a), 623.11, 623.12 or 623.21, or ch. 645, Stats., or s. Ins 51.80. Even if credit for reinsurance is permitted under this chapter and ch. Ins 55, the commissioner may under those provisions require a licensed insurer to exclude the effects of the credit for the purpose of determining compliance with security or compulsory surplus.

(4) Nothing in this ~~chapter~~ subchapter or ch. Ins 55 relieves an insurer or an officer or director of an insurer or an accountant or actuary from responsibility under s. 627.23 (3), Stats., or fiduciary or professional responsibility, to assess the financial condition of a reinsurer. Accreditation by the commissioner does not create a presumption that a reinsurer is in compliance with this ~~chapter~~ subchapter or that it is in sound financial condition and no reinsurer or officer, ~~employe~~ employee or agent of a reinsurer may make such a representation.

(5) This ~~chapter~~ subchapter does not limit or change the requirements for town mutual insurers under ss. 612.31 and 612.33, Stats. This ~~chapter~~ subchapter applies to the state life fund.

SECTION 14. Ins 52 Subchapter II is created to read:

SUBCHAPTER II

CREDIT FOR REINSURANCE INVOLVING TERM AND UNIVERSAL LIFE RESERVE FINANCING

Ins 52.20 Purpose, intent, and applicability. In addition to provisions contained at s. Ins 2.80, the following apply to this subchapter.

(1) PURPOSE AND INTENT. The purpose and intent of this subchapter is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premium, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of primary security and other security, are held by or on behalf of ceding insurers in the forms and amounts required. In general, reinsurance is ceded for reserve financing purposes has one or more of the following characteristics: some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer are issued by the ceding insurer or its affiliates; or are not unconditionally available to satisfy the general account obligations of the ceding insurer; or create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any if its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty).

(2) APPLICABILITY. This subchapter shall apply to reinsurance treaties that cede liabilities pertaining to covered policies issued by any life insurance company domiciled in this state. Subchapter I and this subchapter shall both apply to such reinsurance treaties; provided, that in the event of a direct conflict between the provisions of this subchapter and subch. I, the provisions of this subchapter shall apply, but only to the extent of the conflict.

52.21 Exemptions. This subchapter does not apply to the situations described below:

(1) Reinsurance of:

(a) Policies that satisfy the criteria for exemption set forth in s. Ins 2.80 (5) (k) or (L) that were issued prior to the effective date of this subchapter.

(b) Portions of policies that satisfy the criteria for exemption set forth in s. Ins 2.80 (5) (j), that were issued prior to the effective date of this subchapter.

(c) Any universal life policy that meets the following requirements:

1. Secondary guarantee period, if any, is five years or less.

2. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the commissioners standard ordinary valuation tables and valuation interest rate applicable to the issue year of the policy; and

3. The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

(d) Credit life insurance.

(e) Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(f) Any group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(2) Reinsurance ceded to an assuming insurer that meets the applicable requirements of s. Ins 52.02 (4);

(3) Reinsurance ceded to an assuming insurer that meets the applicable requirements of s. Ins 52.02 (1), (2), or (3), and that in addition:

(a) Prepares statutory financial statements in compliance with the national association of insurance commissioners accounting practices and procedures manual, without any departures from national association of insurance commissioners statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported

surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to statement of statutory accounting principles no. 1; and

(b) Is not in a company action level event, regulatory action level event, authorized control level event, or mandatory control level event as those terms are defined in s. Ins 51.01, when its risk-based capital is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the national association of insurance commissioners from time to time, without deviation; or

(4) Reinsurance ceded to an assuming insurer that meets the applicable requirements of s. Ins 52.02 (1), (2), or (3), and that in addition, the following:

(a) Is not an affiliate, as that term is defined in s. Ins 40.01 (2), of the insurer ceding the business to the assuming insurer; or any insurer that directly or indirectly ceded the business to that ceding insurer.

(b) Prepares statutory financial statements in compliance with the national association of insurance commissioners accounting practices and procedures manual

(c) Is both licensed or accredited in at least 10 states (including its state of domicile), and is not licensed in any state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or any other similar licensing regime; and

(d) Is not, or would not be, below 500% of the authorized control level risk based capital as that term is defined in s. Ins 51.01 (3), when calculated in accordance with the life risk based capital report including overview and instructions for companies, as the same may be amended by the national association of insurance commissioners from time to time, without deviation, and without recognition of any departures from national association of insurance commissioners statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus; or

(5) Reinsurance ceded to an assuming insurer that:

(a) Meets the requirements of s. Ins 52.02 (4m) or (4r); or

(b) Maintains at least $250 million in capital and surplus when determined in accordance with the national association of insurance commissioners accounting practices and procedures manual, including all amendments thereto adopted by the national association of insurance commissioners, excluding the impact of any permitted or prescribed practices; and is

1. Licensed in at least 26 states; or

2. Licensed in at least 10 states, and licensed or accredited in a total of at least 35 states.

(6) Reinsurance not otherwise exempt under subs. (1) to (5), if the commissioner, after consulting with the national association of insurance commissioners financial analysis working group or other group of regulators designated by the national association of insurance commissioners, as applicable, determines under all the facts and circumstances that all of the following apply:

(a) The risks are clearly outside of the intent and purpose of this regulation as provided in s. Ins 52.20 (1),

(b) The risks are included within the scope of this regulation only as a technicality; and,

(c) The application of this regulation to those risks is not necessary to provide appropriate protection to policyholders.

(d) The commissioner shall publicly disclose any decision made pursuant to this subsection to exempt a reinsurance treaty from this regulation, as well as the general basis therefor and including a summary description of the treaty.

52.22 Definitions. In addition to definitions used in s. Ins 2.80 (3), in this section:

(1) "Actuarial method" means the methodology used to determine the required level of primary security.

(2) "Covered policies" means the following: subject to the exemptions described in s. Ins 52.21 covered policies are those policies, other than grandfathered policies, of the following policy types:

(a) Life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or,

(b) Flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

(3) "Grandfathered policies" means policies of the types in sub. (2) that were issued prior to January 1, 2015; and ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set forth in s. Ins 52.21, had that section then been in effect.

(4) "Non-covered policies" means any policy that does not meet the definition of covered policies, including grandfathered policies.

(5) "Other security" means any security acceptable to the commissioner other than security meeting the definition of primary security.

(6) "Primary security" means the following forms of security:

(a) Cash meeting the requirements of s. Ins 52.04 (1);

(b) Securities listed by the securities valuation office meeting the requirements of s. Ins 52.04 (2) and (3), but excluding any synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit, and excluding any securities issued by the ceding insurer of any of its affiliates; and

(c) For security held in connection with funds-withheld or modified coinsurance reinsurance treaties, primary security may include any of the following:

1. Commercial loans in good standing of CM3 quality and higher, as assigned by the national association of insurance commissioners;

2. Policy Loans; and

3. Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

(7) "Required level of primary security" means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

(8) "Valuation manual" means the valuation manual adopted by the national association of insurance commissioners as described s. 623.06 (9) (b), Stats., with all amendments adopted by the national association of insurance commissioners that are effective for the financial statement date on which credit for reinsurance is claimed.

(9) "VM-20" means the "requirements for principle-based reserves for life products," including all relevant definitions, from the valuation manual.

52.23 Actuarial method. (1) ACTUARIAL METHOD. The actuarial method to establish the required level of primary security for each reinsurance treaty subject to this regulation shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the valuation manual as then in effect, applied as follows:

(a) For covered policies described in s. Ins 52.22 (2) (a), the actuarial method is the greater of the deterministic reserve or the net premium reserve regardless of whether the criteria for exemption testing can be met. However, if the covered policies do not meet the requirements of the stochastic reserve exclusion test in the valuation manual, then the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the net premium reserve. In addition, if such covered policies are reinsured in a reinsurance treaty that also contains covered policies described in s. Ins 52.22 (2) (b), the ceding insurer may elect to instead use par. (b) below as the actuarial method for the entire reinsurance agreement. Whether this paragraph or par. (b) are used, the actuarial method must comply with any requirements or restrictions that the valuation manual imposes when aggregating these policy types for purposes of principle-based reserve calculations.

(b) For covered policies described in s. Ins 52.22 (2) (b), the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the net premium reserve, regardless of whether the criteria for exemption testing can be met.

(c) Except as provided in par. (d), the actuarial method is to be applied on a gross basis to all risks with respect to the covered policies as originally issued or assumed by the ceding insurer.

(d) If the reinsurance treaty cedes less than 100% of the risk with respect to the covered policies then the required level of primary security may be reduced as follows:

1. If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, as well as any adjustment under subd. 3., may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;

2. If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the covered policies, except that for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, where the retained reserve of those covered policies should be reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;

3. If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may be reduced by the amount resulting by applying the actuarial method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for covered policies issued prior to January 1, 2017, this adjustment is not to exceed [c_x/ (2 * number of reinsurance premiums per year)] where c_x is calculated using the same mortality table used in calculating the net premium reserve; and

4. For any other treaty ceding a portion of risk to a different reinsurer, including but not limited to stop loss, excess of loss and other non-proportional reinsurance treaties, there will be no reduction in the required level of primary security.

5. It is possible for any combination of subds. 1. to 4. above to apply. Such adjustments to the required level of primary security will be done in the sequence that accurately reflects the portion of the risk ceded via the treaty. The ceding insurer should document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100% of the risk.

The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

(e) In no event will the required level of primary security resulting from application of the actuarial method exceed the amount of statutory reserves ceded.

(f) If the ceding insurer cedes risks with respect to covered policies, including any riders, in more than one reinsurance treaty subject to this subchapter, in no event will the aggregate required level of primary security for those reinsurance treaties be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to this subchapter;

(g) If a reinsurance treaty subject to this subchapter cedes risk on both covered and non-covered policies, credit for the ceded reserves shall be determined as follows:

1. The actuarial method shall be used to determine the required level of primary security for the covered policies, and s. Ins 52.24, shall be used to determine the reinsurance credit for the covered policy reserves; and,

2. Credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of subd. 1., is held by or on behalf of the ceding insurer in accordance with ss. Ins 52.02 and 52.04. Any primary security used to meet the requirements of this subdivision may not be used to satisfy the required level of primary security for the covered policies.

(2) VALUATION USED FOR PURPOSES OF CALCULATIONS. For the purposes of both calculating the Required Level of Primary Security pursuant to the Actuarial Method and determining the amount of Primary Security and Other Security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

(a) For assets, including any such assets held in trust, that would be admitted under the national association of insurance commissioners accounting practices and procedures manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if

such assets were held in the ceding insurer's general account and without taking into consideration the effect of any prescribed or permitted practices; and

(b) For all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the actuarial method if adopted by the national association of insurance commissioners Life Actuarial (A) Task Force no later than the December 31st on or immediately preceding the valuation date for which the required level of primary security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the actuarial method in the manner specified in VM-20.

52.24 Requirements applicable to covered policies to obtain credit for reinsurance: opportunity for remediation. (1) REQUIREMENTS**.** Subject to the exemptions in s. Ins 52.21 and sub. (2), credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies pursuant to ss. Ins 52.02 or 52.04 if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

(a) The ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of s. 623.06, Stats., and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to this regulation does not exceed the proportionate share of those reserves ceded under the contract, and

(b) The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to this regulation and provides support for its calculation as determined to be acceptable to the commissioner; and

(c) Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of s. Ins 52.04, on a funds withheld, trust, or modified coinsurance basis; and

(d) Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to par. (c) are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of s. Ins 52.04; and

(e) Any trust used to satisfy the requirements of this section shall comply with all of the conditions and qualifications of ss. Ins 52.04 and 52.05, except that:

1. Funds consisting of primary security or other security held in trust, shall for the purposes identified in s. Ins 52.23 (2), be valued according to the valuation rules set forth in s. Ins 52.23 (2), as applicable; and

2. There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of par. (c); and

3. The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust, when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by par. (c), below 102% of the level required by par. (c) at the time of the withdrawal or substitution; and

4. The determination of reserve credit under s. Ins 52.05 (2), shall be determined according to the valuation rules set forth in s. Ins 52.23 (2), as applicable; and

(f) The reinsurance treaty has been approved by the commissioner.

(2) REQUIREMENTS AT INCEPTION DATE AND ON AN ON-GOING BASIS: REMEDIATION. (a) The requirements of sub. (1) must be satisfied as of the date that risks under covered policies are ceded (if such date is on or after the effective date of this regulation) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under subs. (1) (c) or (d) with respect to any reinsurance treaty under which covered policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

(b) Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of s. Ins 52.20 (2) shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of subs. (1) (c) and (d) were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to sub. (1) (c), unless either of the following are met:

1. The requirements of subs. (1) (c) and (d) were fully satisfied as of the valuation date as to such reinsurance treaty; or

2. Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security and/or other security, as the case may be, in such amount and in such form as would have caused the requirements of subs. (1) (c) and (d) to be fully satisfied as of the valuation date.

(c) Nothing in par. (b) shall be construed to allow a ceding company to maintain any deficiency under subs. (1) (c) or (d) for any period of time longer than is reasonably necessary to eliminate it.

52.25 Severability. If a provision of this regulation is held invalid, the remainder shall not be affected.

52.26 Prohibition against avoidance. No insurer that has covered policies as to which this subchapter applies (as set forth in s. Ins 52.20 (2)) shall take any action or series of actions or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of such action, transaction or arrangement or series thereof is to avoid the requirements of this regulation, or to circumvent its purpose and intent, as set forth in s. Ins 52.20 (1).

SECTION 15. Ins 52 Appendices C to H are created to read:

Chapter Ins 52 Appendix C

FORM RJ-1

CERTIFICATE OF REINSURER DOMICILED IN RECIPROCAL JURISDICTION

I, _____, _____
(name of officer) (title of officer)

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

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

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

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

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

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

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

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

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

6.Agrees to provide the documentation in accordance with s. Ins 52.02 (4r) 8., if requested by the commissioner.

Dated: _____ _____
(name of assuming insurer)

BY: _____
(name of officer)

_____
(title of officer)

Ins 52 Appendix D

Form CR-F – PART 1

Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15
Company Code or ID Number		Name of Reinsured	Domiciliary Jurisdiction	Assumed Premium	6 Paid Losses and Loss Adjustment Expenses	7 Known Case Losses and LAE	8 Cols. 6 + 7	Contingent Commissions Payable	Assumed Premiums Receivable	Unearned Premium	Funds Held By or Deposited With Reinsured Companies	Letters of Credit Posted	Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit	Amount of Assets Pledged or Collateral Held in Trust
9999999 Totals														

Ins 52 Appendix E

Form CR-F – PART 2

Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	6	Reinsurance Recoverable On									Reinsurance Payable		18	19
						7	8	9	10	11	12	13	14	15	16	17		
Company Code or ID Number		Name of Reinsurer	Domiciliary Jurisdiction	Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	Reinsurance Premiums Ceded	Paid Losses	Paid LAE	Known Case Loss Reserves	Known Case LAE Reserves	IBNR Loss Reserves	IBNR LAE Reserves	Unearned Premiums	Contingent Commissions	Cols. 7 through 14 Totals	Ceded Balances Payable	Other Amounts Due to Reinsurers	Net Amount Recoverable From Reinsurers Cols. 15 – [16 + 17]	Funds Held by Company Under Reinsurance Treaties
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
9999999 Totals					....	....	....	....	....	....	....	....	....	....	....	....	....	....

Form CR-S – PART 1 – SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

Form CR-S – PART 1 – SECTION 2

Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

Form CR-S – PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
Totals—Life, Annuity and Accident and Health						

SECTION 16. EFFECTIVE DATE. The rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provide in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of August, 2021

_____
Mark V. Afable
Commissioner