



Association of Bermuda Insurers and Reinsurers

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April 25, 2008

Mr. Ray Spudeck
P & C Financial Oversight
Office of Insurance Regulation
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Mr. Bob Prentiss
Assistant General Counsel
Office of Insurance Regulation
Florida Department of Financial Services
Bob.Prentiss@fldfs.com
Tallahassee, Florida

Subject: Rule Draft 690-144.007, Credit for Reinsurance from Eligible Reinsurers

Dear Mr. Spudeck and Mr. Prentiss:

On behalf of the 22 members of the Association of Bermuda Insurers and Reinsurers (ABIR), we file these comments for your consideration on the proposed collateral reduction regime. We commend the Office for acting to implement the new provisions of the 2007 Florida law. We support the implementation of the Florida statute, but we urge your consideration of specific amendments to these provisions prior to adoption of the proposal. In this letter, we focus our comments on several specific provisions and provide you with alternative language which addresses our concerns. We look forward to the opportunity to comment on this proposed regulation at the April 29 public hearing.

According to a recent investment analyst report, Bermuda's reinsurers supply more than 60% of the property catastrophe reinsurance to Florida's domestic property insurers. We are an important market supporting Florida's growing domestic insurance industry. Our members have an excellent claims payment and financial strength track record -- having been tested by the worst catastrophic losses that man and Mother Nature have thrown at us in the last seven years. No catastrophic reinsurance claim owed by a Bermuda Class 4 reinsurer has gone unpaid due to insolvency despite the record setting catastrophic losses of the last seven years. Our members have strengthened their capital bases and in spite of record losses, the Bermuda reinsurers have increased their capacity to meet Florida's hurricane insurance needs.

Much attention has been focused in the NAIC debate -- some in the Florida debate -- on the question of whether collateral reduction will lead to reduced reinsurance prices or increased reinsurance capacity. Too much speculation has been focused on this issue. The impact of collateral reduction on price or availability of coverage is impossible to forecast, but no one

should assume that the impact will be anything other than minimal. Price and availability of coverage are set by other factors, not the cost of required collateral. In constrained market situations, there likely will be an incremental gain in reinsurance capacity due to collateral funding relief. In recent years, public statements during the NAIC debate on collateral indicate that the cost of providing collateral ranges from 30 to 100 basis points. This cost will be affected by many factors including the credit standing of the reinsurer, the amount of collateral being provided and the condition of the overall credit markets. According to public statements, the Office's goal is to maximize any available market benefit that may result from collateral reduction. In order to maximize that gain, the regulations would need to minimize collateral requirements, recognize to a maximum degree possible the existing financial reporting done by these reinsurers and recognize existing commercial contract provisions used in the reinsurance market and not mandate new, state-specific terms. We believe the amendments we have suggested in this letter are consistent with that goal.

Section 4, unnumbered paragraph, deferral. We'd recommend that the short tailed business deferral apply for a two year period. As reported in the RAA's 2006 catastrophic loss development study, 90% of hurricane reinsurance claims are paid within nine quarters of the loss occurrence. The deferral period should match the claims payment pattern and a two year deferral would eliminate nearly any double funding that we encounter today. The costs of collateral today contain two elements: 1) the frictional cost of providing the security, the letter of credit or trust; and 2) the funding of collateral even though the claim has been paid. This latter point results from claims that are paid near the time of the ceding insurer's quarterly or annual financial statement preparation where the ceding insurer is looking for collateral to be provided so that it can take appropriate credit on the financial statement. A two year deferral period would maximize that cost savings that would result from collateral reduction.

Section 5, acceptable security. The cedent needs to be able to obtain 100% credit for reinsurance via a combination of two methods: 1) the table that establishes available credit based on the financial strength of the reinsurer; and 2) the balance coming from collateral it holds for its benefit from the reinsurer. The current draft refers to special provisions regarding collateral held in trust and this has led to confusion as to whether other forms of collateral are acceptable for the "balance." We've suggested a clarifying paragraph that makes clear that, in addition to a special provision for multiple beneficiary trust fund reinsurers, that acceptable collateral includes: multiple beneficiary trust funds, individual client trust funds, letters of credit, cash, and other security found to be acceptable by the Office. Most Bermuda reinsurers provide collateral via letters of credit and thus these need to be included in the regulation as acceptable security.

Section 6, paragraph (c) 1 and 2, contract provisions. Items 1 and 2 can be dealt with in regulatory filings with the department and should not be a part of a reinsurance contract. Many reinsurance agreements are syndicated with multiple reinsurers from multiple jurisdictions. It is not necessary to complicate the reinsurance contract with a clause which becomes problematic when considering that not all reinsurers may be eligible or from eligible jurisdictions; or that not all reinsurers will be subject to any collateral requirements. Although we believe the notice of change in an eligible reinsurer's license status or financial ratings can be handled via a filing with the Office as required in section 7(e), we have rewritten the provisions to require a written

agreement between the insurer and the reinsurer to provide such notice instead of including these provisions in the reinsurance agreement.

Section 6 (d). Florida law requires reinsurance agreements to have an insolvency clause (3) and a service of suit clause (4). This requirement does not need to be separately stated in this regulation. Separately stating them here increases the likelihood of confusion over whether these are additional requirements; and raises the possibility of contradictory or inconsistent requirements. This regulation should instead simply cite back to compliance with the requirements of existing law. Reinsurers are in compliance with the existing Florida mandated clauses and thus additional clauses in this section should not be mandated.

Section 7, paragraph (a), 1, financial statements.

The regulation has been appropriately amended to provide flexibility on accepting financial statements from reinsurers located in multiple jurisdictions around the world. Each jurisdiction has its own existing regulatory financial statements. Many of these are confidential documents filed only with the jurisdictional regulator. Until the International Accounting Standards Board (IASB) completes its insurance accounting project, it is likely that multiple insurance accounting rules will continue to apply in the world's important reinsurance regulatory jurisdictions. Recently, European and US securities regulators have entered into a mutual recognition agreement accepting company financial statements filed under each jurisdiction's accounting regulations. This is a groundbreaking regulatory action. Insurance regulators should likewise be willing to accept financial statements acceptable to leading financial market regulators.

We recommend adding language in the regulation that accepts existing US GAAP and International Financial Reporting Standards (IFRS) reports that will be filed with the US Securities and Exchange Commission. This simplified financial statement filing will encourage many reinsurers to file for eligible reinsurance status. Preparation of financial statements unique to Florida is a deterrent to reinsurers pursuing eligibility status.

Section 7, paragraph (a) 3 NAIC Schedule F. We recommend modification of the filing requirement for NAIC Schedule F. NAIC Schedule F is an eight part comprehensive document governing cessions and assumptions, premiums and liabilities, types of security, status of recoverables. It is required to be filed by US licensed insurers. Nothing like it exists outside of the US. Non-US reinsurers do not collect, nor report this data and it is not audited as part of a financial statement. We've deleted the reference to Schedule F because we believe its inclusion signals non-US reinsurers that there is an expectation that they conform to this unique NAIC financial schedule. After conversations with the Office, we learned that the Office's chief regulatory interest was in three areas: information about the retrocessional program of the reinsurer; information that will help verify the reinsurance utilization reports received from Florida domestic insurers; and information about the claims payment disputes record. We recommend that the regulation be rewritten to focus the reinsurer filing on these items of most interest to the Office. Thus we have included a reference that upon request that the reinsurer will be required to verify reinsurance utilization information filed by the ceding insurer. In addition, since the regulator is looking for a list of the eligible reinsurer's retrocessions, a separate filing of that information could appropriately be required. Also the regulator is interested in the reinsurer's claims payment patterns. Other provisions of this section already require filing of

disputes and recoverable amounts overdue, so there is no need to require a Schedule F filing to receive this information.

Thank you for consideration of our views. Please let me know if I can address any questions that arise from these comments.

Sincerely,

A handwritten signature in black ink that reads "Bradley L. Kading". The signature is written in a cursive, flowing style.

Bradley L. Kading
President and Executive Director

Cc: Ms. Belinda Miller; Leila Madeiros