

August 4, 2010

The Honorable James Wrynn
Superintendent of Insurance
Insurance Department
State of New York

Via Email: jfritsch@ins.state.ny.us

**Subject: Proposed Tenth Amendment to Regulations No. 17, 20 and 20-A (11 NYCRR 125)
Credit for Reinsurance**

Dear Superintendent Wrynn:

On behalf of the 22 members of the Association of Bermuda Insurers and Reinsurers (ABIR) we write to offer our support for collateral reduction alternatives within the state's credit for reinsurance regulation published as the proposed Tenth Amendment to Regulations No. 27, 20 and 20-A. We also offer technical comments on the proposed changes. We applaud the department for proposing this amendment.

Although it is not stated explicitly in the proposal, the new provision 125.3 (h) appears to create a three part process for utilization of a provision that allows for ceding insurers to get full credit for reinsurance from certain unauthorized reinsurers which meet the agency's test for determining "alternative credit for cessions to unauthorized reinsurers." The first test: 1) the unauthorized assuming reinsurer's foreign domicile must enter into a memorandum of understandingⁱ with the New York Insurance Department and meet a market access test for US based reinsurersⁱⁱ (h)(4)(iii)(a) and (b); the second test: 2) the Superintendent must evaluate the unauthorized reinsurer to see if it meets the tests allowing the assignment of a "secure 1-4" rating (h)(2) and subparagraphs (a) through (k); and subparagraph (4); and the third test: 3) the ceding insurer finds that the reinsurance contract meets certain conditions as specified in (4)(iv).

Technical Comments

Section (h)(2)(i)(d). This section uses a reference to "national reinsurers". We believe in context this reference means state regulated, licensed insurers functioning as assuming reinsurers. We're not familiar with the term "national reinsurer" being defined so we'd recommend that a defined term be used here such as an insurer licensed by a state or states.

Section (h)(2)(i)(j). This paragraph refers to a reinsurer's "participation" in a solvent scheme of arrangement. We point out that being a "participant" is different than "initiating" a scheme of arrangement or being the "beneficiary" of a scheme of arrangement. We think the correct

meaning here is a reinsurer that is instigating a scheme of arrangement for its own benefit so we recommend that the words “participation in” be changed to the words “initiation of”. In the second sentence we’d recommend that language be added that ties entry into a solvent scheme to an official court action. We’d recommend the following language: “Upon entry of a final court order [entrance] into such an arrangement or procedure that involves one or more U.S. cedents will result in an assignment of a Vulnerable-5 rating”.

Section (h)(3). We point out that “short-tailed” lines are not specified. The Florida regulation identifies specific lines in the annual statement to define this term. Is it beneficial to tie the short tail reference back to reinsurance of specific lines of business? An alternative would be to delete the reference to “short tail lines due to” and let the remaining phrase stand as it is: “For reinsurance ceded by an authorized property/casualty insurer for a catastrophic loss . . .”. Catastrophic loss is defined in the regulatory proposal. We’d also recommend adding property related terrorism losses to the second sentence of this paragraph.

Section (h)(4)(ii)(b). We recommend modification of the filing requirement for “a report in the form of the NAIC Annual Filing Blank 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. After conversations with other insurance regulators about this matter, we learned that the 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 New York domestic insurers in their ceded reinsurance schedules; and information about the claims payment disputes record. We recommend that this line be rewritten as follows: “(b) a report in the form of certain subsections of the NAIC Annual Filing Blank Schedule F with regard to information that allows verification of material amounts of reinsurance assumed from New York domestic ceding insurers, material retrocessional information for the assuming reinsurer and data about material amounts of reinsurance claims payments in dispute with US ceding insurers.”

Affiliated Reinsurance

We would also urge the department to include in its regulatory proposal a measure to afford an exemption to required collateral for affiliated reinsurance transactions. ABIR and European insurers and reinsurers have previously filed with the NAIC the rationale for the collateral exemption for affiliated transactions. The crux of the matter is the insurance regulator’s ability to specifically approve those affiliated reinsurance transactions. That existing state regulatory authority coupled with greater interaction with the foreign regulator of the affiliate (that will be assured via the memorandum of understanding) creates an opportunity for a different regulatory threshold to apply for affiliated transactions. Providing a specific collateral exemption for affiliated transactions would go along way to securing New York’s leadership role as a port of entry for non US insurance enterprises. This exemption for affiliated transactions is also relevant to the reporting requirements of section 125.2(a)(8)(b)(1) and (2). Affiliated transactions are already subject to prior approval in New York and thus these considerations are already part of regulatory deliberations and should be exempted from this new reporting requirement.

New York is the center of the US financial services industry. We believe New York's action in pursuing credit for reinsurance reform will contribute to growth in New York's financial services business. The leadership on this matter will put New York in a good position to attract additional international investment. We encourage the insurance department to consider these and other comments and move ahead with promulgation of the proposed amendments.

Sincerely,

A handwritten signature in black ink, reading "Bradley L. Kading". The signature is written in a cursive style with a large initial 'B' and 'K'.

Bradley L. Kading
President and Executive Director
Association of Bermuda Insurers and Reinsurers

Cc: Joseph Fritsch

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- ⁱ The Bermuda Monetary Authority and the New York Insurance Department have a memorandum of understanding in place.
- ⁱⁱ US reinsurers have the ability to freely conduct business with the international insurers and reinsurers with legal entities in Bermuda