

COMMONWEALTH OF VIRGINIA

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BUREAU OF INSURANCE



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August 27, 2002

Administrative Letter 2002-10

TO: All Companies Licensed under Article 8 (§ 38.2-1347 et seq.) of Chapter 13 of Title 38.2 or Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2 of the Code of Virginia

RE: Licensing of Reinsurance Intermediaries

The provisions of this administrative letter, effective September 1, 2002, replace the provisions of Administrative Letter 1992-15.

Effective September 1, 2002, Article 5 (§ 38.2-1846 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia (requiring the licensing of certain reinsurance intermediaries and the submission of certain broker/agency contracts for approval) is repealed and replaced in its entirety by Article 8 (§ 38.2-1347 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia. All references in this letter to a section, chapter or title shall be to the cited portion of the Code of Virginia.

Definitions

The following terms as used in this letter shall have the following meanings:

- A. **Reinsurance intermediary** means a reinsurance intermediary broker or a reinsurance intermediary manager.
- B. **Reinsurance intermediary broker** means any person, other than an officer or employee of the ceding insurer, who, without the power to bind the ceding insurer, solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer or otherwise negotiates with a ceding insurer concerning reinsurance cessions or retrocessions.
- C. **Reinsurance intermediary manager** means any person who:
 - 1. has authority to bind reinsurance risks; **or**

2. manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, **and**

acts as an agent for such reinsurer whether known as a reinsurance intermediary manager or other similar term. Notwithstanding the foregoing, the following persons shall **not** be considered a reinsurance intermediary manager provided such persons are acting in the capacity of employee or agent, as described herein, and properly discharging the duties of such employment or agency:

- a. An employee of the reinsurer;
 - b. A United States manager of the United States branch of an alien reinsurer;
 - c. An underwriting manager who, pursuant to a contract, manages all or part of the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to Article 5 (§ 38.2-1322 et seq.) of Chapter 13 or Article 2 (§ 38.2-4230 et seq.) of Chapter 42 of Title 38.2, and whose compensation is not based on the volume of premiums written;
 - d. The manager of a group, association, pool or organization of insurers that engages in joint underwriting or joint reinsurance and that is subject to examination by the supervising insurance official of the state, as defined in § 38.2-100, in which the manager's principal business office is located; or
 - e. A licensed managing general agent who binds facultative reinsurance contracts by placing individual risks pursuant to obligatory facultative agreements and subdivision 10 of § 38.2-1360.
- D. **Insurer** means any person duly licensed in Virginia pursuant to Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2.
- E. **Reinsurer** means any insurer licensed in Virginia with the authority to cede or accept from any insurer reinsurance pursuant to § 38.2-136.

License Requirements

The following persons (individuals, partnerships, limited partnerships, limited liability companies, and corporations) are required to be licensed as a **Reinsurance Intermediary Broker**:

1. A person who acts as a reinsurance intermediary broker in Virginia and maintains an office in Virginia either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation.
2. A person who acts as a reinsurance intermediary broker in Virginia without maintaining an office in Virginia, unless such reinsurance intermediary broker is licensed as a reinsurance intermediary in another state under a law substantially similar to Virginia law.

The following persons are required to be licensed as a **Reinsurance Intermediary Manager**:

1. A person acting as a reinsurance intermediary manager for a reinsurer domiciled in Virginia.
2. A person acting as a reinsurance intermediary manager in Virginia while such person maintains an office in Virginia.
3. A person acting as a reinsurance intermediary manager in another state for an insurer licensed but not domiciled in Virginia, unless such reinsurance intermediary manager is licensed as a reinsurance intermediary in another state under a law substantially similar to Virginia law.

Sections 38.2-1349 through 38.2-1354 pertain to required contract provisions, books and records, and duties of the insurer or reinsurer. An insurer is subject to the provisions set forth in §§ 38.2-1349, 38.2-1350, and 38.2-1351 **even if its reinsurance intermediary broker is not subject to licensing in Virginia**. Also, a reinsurer is subject to the provisions set forth in §§ 38.2-1352, 38.2-1353, and 38.2-1354 **even if its reinsurance intermediary manager is not subject to licensing in Virginia**.

Approval of Contracts

A contract between a reinsurer and a reinsurance intermediary manager must be approved by the reinsurer's board of directors and by the Bureau of Insurance (the "Bureau") regardless of whether the reinsurance intermediary manager is subject to licensing in Virginia. Pursuant to § 38.2-1352, at least 30 days before a reinsurer assumes or cedes business through a reinsurance intermediary manager, a true copy of the contract must be filed with the Bureau for approval. Also, any amendment to the contract must be filed with the Bureau for approval at least 30 days prior to its effective date. Within 30 days of termination of a contract with a reinsurance intermediary manager, the reinsurer is required to provide written notification of such termination to the Bureau pursuant to § 38.2-1354.

Licensing Procedures

Any **insurer or reinsurer** that uses the services of a reinsurance intermediary broker or manager who is subject to licensing in Virginia **is responsible for notifying each of its reinsurance intermediaries that they must request a license application package** from the Bureau and be licensed.

A license issued to a reinsurance intermediary will be good for up to two years and will expire every other June 30. A renewal application and a renewal fee of \$500 must be submitted between May 1 and June 1 of the year in which the license will expire. The following items must be submitted to the Bureau as part of the initial application:

1. A \$500 nonrefundable application fee;
2. A completed application form;
3. A statement identifying the reinsurance intermediary's principal place of business and organizational structure;
4. A plan of operation;
5. A completed biographical affidavit for each individual to be authorized to act as a reinsurance intermediary under the license pursuant to § 38.2-1348;
6. A current audited financial statement certified by a certified public accountant;
7. A certified copy of the reinsurance intermediary's organizational documents;
8. A certification or attestation of a fidelity bond for the protection of each reinsurer the reinsurance intermediary represents in an amount acceptable to the Bureau, if the reinsurance intermediary is a reinsurance intermediary manager;
9. A certification or attestation of an errors and omissions policy with limits acceptable to the Bureau, if the reinsurance intermediary is a reinsurance intermediary manager; and
10. A copy of any contract in force between the reinsurance intermediary and any reinsurer, if the reinsurance intermediary is a reinsurance intermediary manager.

Domestic insurers may be required to submit information concerning their reinsurance intermediaries as a supplement to the annual statement. If such information is required, the form for providing such information will be mailed in December to each domestic insurer with the annual license renewal information.

A copy of Article 8 may be obtained from the Virginia Legislative Information System's website at: <http://leg1.state.va.us/lis.htm>. Questions regarding the contents of this letter, requests for a copy of Article 8, reinsurance intermediary application packages,

and reinsurance intermediary manager contracts subject to approval by the Bureau should be directed to the attention of:

Gregory S. Yeatts
Financial Regulation Division, Bureau of Insurance
State Corporation Commission
P.O. Box 1157
Richmond, VA 23218
(804) 371-9391

Sincerely,

A handwritten signature in cursive script, appearing to read "Alfred W. Gross".

Alfred W. Gross
Commissioner of Insurance

/rpm:2002-10