

COMMONWEALTH OF VIRGINIA



STEVEN T. FOSTER
COMMISSIONER OF INSURANCE

Box 1157
RICHMOND, VA 23209
TELEPHONE: (804) 786-3741
TDD/VOICE: (804) 225-3806

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

January 21, 1992

Administrative Letter 1992-3

TO: To All Insurance Companies Licensed in Virginia

RE: Requirements for Reinsurers Desiring to Qualify as Acceptable Reinsurers under Virginia Code Section 38.2-1316.2 or 38.2-1316.3

The reinsurance provisions in Chapter 13 of the Virginia Insurance Code (Title 38.2 of the Code of Virginia, 1950, as amended) were changed by the 1991 Session of the Virginia General Assembly. The provisions of §38.2-1316 were replaced by Article 3.1 of Chapter 13. All cessions made under reinsurance agreements which have an inception, anniversary, or renewal date on or after January 1, 1992 will be subject to the new requirements of Article 3.1.

In accordance with Article 3.1, an insurer licensed in Virginia is allowed credit for a reinsurance transaction if the assuming insurer specifically qualifies under the new provisions of the law. Additionally, the reinsurance agreement itself must satisfy the conditions set forth in §38.2-1316.5. Even if the assuming insurer is a qualified reinsurer and the reinsurance agreement satisfies the conditions of §38.2-1316.5, credit shall be disallowed if there is any indication of financial statement distortion, or if the assuming insurer bears no substantial insurance risk or net loss to itself.

This letter sets forth basic criteria which the Bureau of Insurance will use to determine whether a ceding insurer may take credit pursuant to §38.2-1316.2 or §38.2-1316.3. It explains how an assuming insurer can be recognized in Virginia as a qualified reinsurer. It puts into context the responsibilities of ceding insurers licensed in Virginia in regard to their assuming insurers.

ASSUMING INSURER QUALIFICATIONS:

Reinsurers qualifying under §38.2-1316.2 or §38.2-1316.3 must satisfy minimum financial standards. An assuming insurer may demonstrate this by qualifying under one of the following classifications:

I. When the ceding insurer is a domestic ceding insurer:

- A. Licensed in Virginia as an insurer in good standing (§38.2-1316.2.A.1).
- B. Accredited in Virginia as an accredited reinsurer with surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trustee surplus of at least \$20,000,000 (§38.2-1316.2.A.2).
- C. Licensed and domiciled in a state with credit for reinsurance laws substantially similar to Virginia's credit for reinsurance laws, and having surplus of at least \$20,000,000, or trustee surplus of \$20,000,000, in the case of a U.S. branch of an alien assuming insurer (§38.2-1316.2.A.3).
- D. Recognition as a single assuming insurer with a qualifying trust account and trustee surplus of at least \$20,000,000 (§38.2-1316.2.A.4.(a)).
- E. Qualified participation in a group of individual unincorporated underwriters with a qualifying trust account and trustee surplus of at least \$100,000,000 (§38.2-1316.2.A.4.(b)).
- F. Qualified participation in an experienced group of incorporated insurers with aggregate policyholders' surplus of at least \$10,000,000,000, a qualifying trust account, and a joint trustee surplus of at least \$100,000,000 (§38.2-1316.2.A.4.(c)).

II. When the ceding insurer is a foreign or alien ceding insurer:

- A. Licensed in Virginia as an insurer in good standing (§38.2-1316.3.A.1).
- B. Accredited in Virginia as an accredited reinsurer with surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trustee surplus of at least \$20,000,000 (§38.2-1316.3.A.1).

- C. Licensed in another state and having a surplus of at least \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, trusteed surplus of at least \$20,000,000 (§38.2-1316.3.A.2).
- D. Recognition as a single assuming insurer with a qualifying trust account and trusteed surplus of at least \$20,000,000 (§38.2-1316.3.A.3).
- E. Qualified participation in a group of individual unincorporated underwriters with a qualifying trust account and trusteed surplus of at least \$100,000,000 (§38.2-1316.3.A.3).
- F. Qualified participation in an experienced group of incorporated insurers with aggregate policyholders' surplus of at least \$10,000,000,000, a qualifying trust account, and a joint trusteed surplus of at least \$100,000,000 (§38.2-1316.3.A.3).

Filing requirements for assuming insurers desiring to qualify as reinsurers under the above classifications are attached. Also attached is a copy of the certificate of assuming insurer, which must accompany specific requests for recognition as an acceptable reinsurer in Virginia under applicable provisions of Article 3.1. Please note: Although there are no specific filing requirements for assuming insurers qualifying under item II, C above, the Bureau of Insurance reserves the right to require information be filed in order to verify that such reinsurers of licensed companies are acceptable.

RESPONSIBILITIES OF THE CEDING INSURER

Ceding insurers are responsible for ensuring the validity of any credit reported on their financial statements. A ceding insurer should be able to assign each of its assuming insurers to one of the above classifications of qualifying reinsurers upon request. If the ceding insurer cannot identify its assuming insurer as falling into one of the classifications cited above, the reinsurance transaction should be effected or secured in a manner that satisfies §38.2-1316.4.1 or §38.2-1316.4.2, respectively.

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Any questions regarding the contents of this letter should be directed to:

Gregory D. Walker, CPA
Insurance Auditor
Financial Analysis Section
Bureau of Insurance
P.O. Box 1157
Richmond, VA 23209
(804) 786-4604

Sincerely,

A handwritten signature in black ink, appearing to read 'S. T. Foster', with a long horizontal flourish extending to the right.

Steven T. Foster
Commissioner of Insurance

STF:fah

Attachments

COMMONWEALTH OF VIRGINIA



STEVEN T. FOSTER
COMMISSIONER OF INSURANCE

Box 1157
RICHMOND, VA 23209
TELEPHONE: (804) 786-3741
TDD/VOICE: (804) 225-3806

STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR ACCREDITED REINSURERS

In order to obtain accreditation pursuant to Virginia Code §§ 38.2-1316.2.A.2 and 38.2-1316.3.A.1, a foreign assuming insurer must have surplus to policyholders of not less than \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, have trusted surplus of not less than \$20,000,000. In either case the following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A certified copy of a certificate of authority, license, certificate of compliance, or other evidence that the assuming insurer is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
3. A copy of the assuming insurer's Annual Statement for the preceding calendar year and Quarterly Statement for the most recent quarter ended in the current calendar year. Both statements must bear signatures of the officers and a notary public along with a notarial seal. Unless otherwise provided in Title 38.2 of the Code of Virginia, or by any applicable rule, regulation or administrative letter, both statements are to be prepared in accordance with the applicable instructions and the applicable Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners. All schedules and exhibits must be attached;
4. A copy of the assuming insurer's statement of trusted surplus, if the assuming insurer is a U.S. branch of an alien assuming insurer;
5. A copy of the most recent audited financial report; and
6. Any additional information, certifications or reports as the Bureau of Insurance determines to be necessary to verify the license status or financial condition of the assuming insurer.

Requirements for Accredited Reinsurers
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The Bureau of Insurance intends to act on all requests for recognition under Virginia Code §§ 38.2-1316.2.A.2 and 38.2-1316.3.A.1 within a reasonable time frame. The failure to respond within ten (10) days to any request by the Bureau of Insurance for additional documents or clarification shall be considered grounds for refusing to recognize the assuming insurer as an accredited reinsurer.

All items should be submitted at one time to:

Gregory D. Walker, CPA, Insurance Auditor
Financial Analysis Section
State Corporation Commission/Bureau of Insurance
P. O. Box 1157
Richmond, Virginia 23209
(804) 786-4604

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR SUBSTANTIALLY SIMILAR REINSURERS (ONLY APPLICABLE WHEN RISKS ARE ASSUMED FROM CEDING INSURERS DOMICILED IN VIRGINIA)

In order to obtain status as a substantially similar reinsurer pursuant to Virginia Code §38.2-1316.2.A.3, a foreign assuming insurer must have surplus to policyholders of not less than \$20,000,000, or in the case of a U.S. branch of an alien assuming insurer, have trusted surplus of not less than \$20,000,000. Substantially similar standards means standards regarding credit for reinsurance which the Bureau of Insurance determines equal or exceed the standards of Virginia. The surplus requirement for a foreign assuming insurer shall be deemed waived when reinsurance is ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A certified copy of a certificate of authority, license, certificate of compliance or other evidence that the assuming insurer is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;
3. A copy of the assuming insurer's Annual Statement for the preceding calendar year and Quarterly Statement for the most recent quarter ended in the current calendar year. Both statements must bear signatures of the officers and a notary public along with a notarial seal. Unless otherwise provided in Title 38.2 of the Code of Virginia, or by any applicable rule, regulation or administrative letter, both statements are to be prepared in accordance with the applicable instructions and the applicable Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners. All schedules and exhibits must be attached.
4. A copy of the assuming insurer's statement of trusted surplus, if a U.S. branch of an alien assuming insurer;

5. A copy of the most recent audited financial report;
6. A memorandum explaining how the credit for reinsurance standards of the assuming insurer's state of domicile or entry are substantially similar to Virginia's credit for reinsurance standards;
7. A copy of the statutes, regulations, and interpretations of the standards utilized by the state of domicile or entry of the assuming insurer, which support the basis for requesting the status of a substantially similar reinsurer; and
8. Any additional information, certifications or reports of the assuming insurer as the Bureau of Insurance determines are necessary to verify the status or financial condition of the assuming insurer.

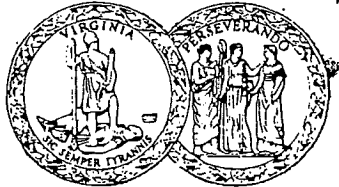
The Bureau of Insurance intends to act on all requests for recognition under Virginia Code §38.2-1316.2.A.3 within a reasonable time frame. The failure to respond within ten (10) days to any request by the Bureau of Insurance for additional documents or clarification shall be considered grounds for refusing to recognize the assuming insurer as a substantially reinsurer.

All items should be submitted at one time to:

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR A TRUSTEED REINSURER: SINGLE ASSUMING INSURER

In order to be considered for status as a trusteeed reinsurer pursuant to Virginia Code §§ 38.2-1316.2.A.4.(a) and 38.2-1316.3.A.3, a single assuming insurer must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trust account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a trusteeed surplus of not less than \$20,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trusteeed surplus executed by a duly authorized officer or representative of the trusteeed assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the trust fund; and
6. A certified English translation of any foreign language documents filed.

Pursuant to Virginia Code §38.2-1316.2, subsection B, the trust referred to above must contain the following conditions:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;
2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;
3. The trust and the assuming insurer shall be subject to examination as determined by the State Corporation Commission;
4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
5. No later than February 28 of each year the trustees of the trust shall report to the Bureau of Insurance in writing the balance of the trust; list the trust's investments at the preceding year end; and certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

The Bureau of Insurance intends to act on all requests for recognition under Virginia Code §§ 38.2-1316.2.A.4.(a) and 38.2-1316.3.A.3 within a reasonable time frame. The failure to respond within ten (10) days to any request by the Bureau of Insurance for additional documents or clarification shall be considered grounds for refusing to recognize the assuming insurer as a trusteed reinsurer.

All items should be submitted at one time to:

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR TRUSTEED REINSURER: GROUP OF INDIVIDUAL UNINCORPORATED UNDERWRITERS

In order to be considered for status as a trusteeed reinsurer pursuant to Virginia Code §§ 38.2-1316.2.A.4.(b) and 38.2-1316.3.A.3, a group of individual unincorporated underwriters must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trusteeed account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming shall maintain a trusteeed surplus of not less than \$100,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trusteeed surplus executed by a duly authorized officer or representative of the trusteeed assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the fund;
6. Annual certifications of the solvency of each underwriting member of the group, prepared by the group's domiciliary regulator and its independent accountant; and

Requirements for Trusteed Reinsurer

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7. A certified English translation for any foreign language documents filed.

Pursuant to Virginia Code §38.2-1316.2.B, the trust referred to above must contain the following conditions:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;
2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;
3. The trust and the assuming insurer shall be subject to examination as determined by the State Corporation Commission;
4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
5. No later than February 28 of each year the trustees of the trust shall report to the Bureau of Insurance in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

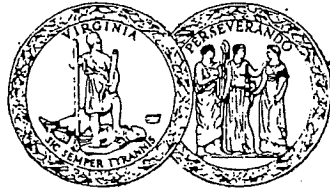
The Bureau of Insurance intends to act on all requests for recognition under Virginia Code §§ 38.2-1316.2.A.4 and 38.2-1316.3.A.3.(b) within a reasonable time frame. The failure to respond within ten (10) days to any request by the Bureau of Insurance for additional documents or clarification shall be considered grounds for refusing to recognize the assuming insurer as a trusteed reinsurer.

All items should be submitted at one time to:

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STATE CORPORATION COMMISSION BUREAU OF INSURANCE

RE: REQUIREMENTS FOR A TRUSTEED REINSURER: GROUP OF INDIVIDUAL INCORPORATED UNDERWRITERS

In order to be considered for status as a trusteeed reinsurer pursuant to Virginia Code §§ 38.2-1313.2.A.4.(c) and 38.2-1316.3.A.3, a group of individual unincorporated underwriters must maintain a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The trust must consist of a trust account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a trusteeed surplus of not less than \$100,000,000. The following items must be submitted to the Bureau of Insurance:

1. A properly executed certificate of assuming insurer in triplicate (form attached);
2. A copy of the trust agreement pertaining to the requisite trust funds along with a statement identifying and locating the specific provisions in the agreement which satisfy the form of trust requirements set forth in Virginia Code §38.2-1316.2.B;
3. A certified statement from the trustee of the trust listing the assets in the trust;
4. A certified statement and accounting of trusteeed surplus executed by a duly authorized officer or representative of the trusteeed assuming insurer;
5. Information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers, to enable the Bureau of Insurance to determine the sufficiency of the trust fund;
6. Annual certifications of the solvency of each underwriting member of the group, prepared by the group's domiciliary regulator and its independent accountant;
7. Evidence of submission to the State Corporation Commission's authority to examine the books and records of any member of the group;

8. Certification that any member examined will bear the expense of any such examination; and
9. A certified English translation of any foreign language documents filed.

Pursuant to Virginia Code §38.2-1316.2.B, the trust referred to above must contain the following conditions:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States;
2. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;
3. The trust and the assuming insurer shall be subject to examination as determined by the State Corporation Commission;
4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and
5. No later than February 28 of each year the trustees of the trust shall report to the Bureau of Insurance in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

The Bureau of Insurance intends to act on all requests for recognition under Virginia Code §§ 38.2-1316.2.A.4 and 38.2-1316.3.A.3.(c) within a reasonable time frame. The failure to respond within ten (10) days to any request by the Bureau of Insurance for additional documents or clarification shall be considered grounds for refusing to recognize the assuming insurer as a trusteed reinsurer.

All items should be submitted at one time to:

Gregory D. Walker, CPA, Insurance Auditor
Financial Analysis Section
State Corporation Commission/Bureau of Insurance
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Richmond, Virginia 23209
(804) 786-4604

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE
P.O. BOX 1157
RICHMOND, VA 23209
CERTIFICATE OF ASSUMING INSURER

PART I: IDENTIFYING DATA

State of Domicile or Entry

NAIC Number

Name of Assuming Insurer

Statutory Home Office (Street Address, City, State, and Zip Code)

Main Administrative Office (Street Address, City, State, Zip Code)

Mailing Address (Street or P.O. Box, City, State, Zip Code)

Contact Person for Regulatory Mail

(_____) _____
Area Code/Telephone Number

PART II: AFFIDAVIT AND SUBMISSIONS

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

of _____, the assuming insurer under a reinsurance agreement(s) with one or more insurers domiciled in the Commonwealth of Virginia, request verification from the State Corporation Commission of the Commonwealth of Virginia ("Commission") of authorization pursuant to Title 38.2 of the Code of Virginia as the following type of assuming insurer (check one):

____ Accredited Reinsurer
88 38.2-1316.2.A.2 &
38.2-1316.3.A.1

____ Substantially Similar Reinsurer
8 38.2-1316.2.A.3

____ Trusteed Reinsurer (S)
88 38.2-1316.2.A.4.(a) &
38.2-1316.3.A.3

____ Trusteed Reinsurer (U)
88 38.2-1316.2.A.4.(b) &
38.2-1316.3.A.3

____ Trusteed Reinsurer (I)
88 38.2-1316.2.A.4.(c) &
38.2-1316.3.A.3

and in support thereof (i) verify the accuracy of the above identifying data and (ii) certify to the Commission that _____
("the Assuming Insurer"):

1. Is licensed to transact insurance or reinsurance in its state of domicile or entry.
2. Is in good standing in its state of domicile or entry.

3. Reports its financial condition (statutory basis) as of _____, 19____ (end of most recent calendar year) to be as follows:

Liabilities: _____

Surplus to Policyholders: _____

Total Admitted Assets: _____

Trusteed Surplus (Alien Reinsurer Only): _____

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

5. Designates and appoints the Clerk of the Commission, and his successor or successors, in office, as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.

6. Submits to the authority of the Commission make or direct to be made an examination into its affairs, including its books and records and agrees further to bear the expense of any such examination.

7. Submits with this form a current list of insurers domiciled in the Commonwealth of Virginia reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Commission and its Bureau of Insurance on or before March 1 of each year, or, if requested by the Commission, at least once per calendar quarter.

(Assuming Insurer)

(Date)

By: _____
(Officer)

(Title)

(Assuming Insurer's Seal)

Sworn to and subscribed before me this _____ day of _____, 19____

Notary Public