

**DELAWARE INSURANCE DEPARTMENT
GUIDELINES FOR CREDIT ALLOWED A DOMESTIC CEDING INSURER
ADOPTED JANUARY, 1992**

- 1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.
- 2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer of this state. An accredited reinsurer is one which:
 - (a) Files with the Commissioner evidence of its submission to this state's jurisdiction;
 - (b) Submits to this state's authority to examine its books and records;
 - (c) 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 and reinsurance in at least one state;
 - (d) Files annually with the Commissioner a copy of its annual statement filed with the Insurance Department of its state of domicile; and either
 - (1) Maintains a surplus as regards to policyholders in an amount which is not less than \$20,000,000 and whose accreditation has not been denied by the Commissioner within 90 days of its submission; or
 - (2) Maintains a surplus as regards to policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the Commissioner.

No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after a notice and hearing.

- 3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a U.S. Branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under Section 911, Article 18, of the Annotated Code of Delaware entitled Insurance Code, and the assuming insurer of U.S. Branch of an alien assuming insurer:
 - (a) Maintains a surplus as regards to policyholders in an amount not less than \$20,000,000; and
 - (b) Submits to the authority of this state to examine its books and records.

GUIDELINES:

QUALIFIED UNITED STATES FINANCIAL INSTITUTIONS:

- (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States Financial Institution, as defined in Section 913(b) of this title, exclusively for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner, information substantially the same, as that required to be reported on the NAIC Annual Statement Form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountant.
- (b) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in the previous paragraphs, and which as continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation and submits to the State's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10,000,000,000, the trust shall be an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group, plus the group shall maintain a joint trustee surplus of which \$10,000,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

GUIDELINES:

- (c) Such trust shall be established in a form approved by the Commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have the outstanding obligations due under the reinsurance agreements subject to the trust.
- (d) No later than February 28th of each year, the trustees of the trust shall report to the Commissioner in writing setting forth 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 31st.

CAPITALIZATION: QUALIFIED UNITED STATES INSTITUTIONS:

- (a) For purposes of Section 912(c), of this title, a "qualified United States Financial Institution" means an institution that:
- (1) Is organized or (in the case of U.S. Office of a foreign banking organization) licensed under the laws of the United States or any state thereof;
 - (2) Is regulated, supervised and examined by the U.S. Federal or state authorities having regulatory authority over banks and trust companies; and
 - (3) Has been determined by either the Commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of the financial institutions whose letters of credit will be acceptable to the Commissioner.

GUIDELINES:

(b) A “qualified United States Financial Institution” means for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust and institution that:

- (1) Is organized or (in case of U.S. Branch or agency office of a foreign banking organization) licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and**
- (2) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies (68 Del. Laws, c 58, Section 4, approved June 25, 1991).**

REVISED 2/24/98