

3 AAC 21 is amended by adding a new section to read:

**3 AAC 21.615. Term and universal life insurance reserve financing.** (a) The purpose and intent of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of primary security and other security, as defined in 3 AAC 21.695(18) and (19), are held by or on behalf of ceding insurers in the forms and amounts required herein. In general, reinsurance ceded for reserve financing purposes has one or more of the following characteristics: some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer:

(1) are issued by the ceding insurer or its affiliates;

(2) are not unconditionally available to satisfy the general account obligations of the ceding insurer; or

(3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any of its affiliates, other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

(b) This section applies to reinsurance treaties that cede liabilities pertaining to covered policies, as defined in 3 AAC 21.695(14), issued by a life insurance company domiciled in this state.

(c) The actuarial method to establish the required level of primary security for each reinsurance treaty subject to this section shall be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the valuation manual as then in effect, applied as follows:

(1) for covered policies described in 3 AAC 21.695(14)(A), the actuarial method is the greater of the Deterministic Reserve or the Net Premium Reserve (NPR) regardless of whether the criteria for exemption testing can be met. However, if the covered policies do not meet the requirements of the Stochastic Reserve exclusion test in the valuation manual, then the actuarial method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR. In addition, if the covered policies are reinsured in a reinsurance treaty that also contains covered policies described in 3 AAC 21.695(14)(B), the ceding insurer may elect to instead use (2) of this subsection as the actuarial method for the entire reinsurance agreement. Whether (1) or (2) of this subsection are used, the actuarial method must comply with the requirements or restrictions that the valuation manual imposes when aggregating these policy types for purposes of principle-based reserve calculations;

(2) for covered policies described in 3 AAC 21.695(14)(B), the actuarial method is the greatest of the Deterministic Reserve, the Stochastic Reserve, or the NPR regardless of whether the criteria for exemption testing can be met;

(3) except as provided in (4) of this subsection, the actuarial method is to be applied on a gross basis to all risks with respect to the covered policies as originally issued or assumed by the ceding insurer;

(4) if the reinsurance treaty cedes less than 100 percent of the risk with respect to the covered policies then the required level of primary security may be reduced as follows:

(A) if a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, as well as an adjustment under (C) of this paragraph, may be reduced to a pro rata portion in accordance with the percentage of the risk ceded;

(B) if the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the covered policies, except that for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, where the retained reserve of those covered policies should be reflective of a reduction according to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement;

(C) if a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may be reduced by the amount resulting by applying the actuarial method including the reinsurance section of VM-20 to the portion of the covered policy risks ceded in the exempt arrangement, except that for covered policies issued before Jan 1, 2017, this adjustment is not to exceed  $[cx / (2 * \text{number of reinsurance premiums per year})]$  where  $cx$  is calculated using the same mortality table used in calculating the Net Premium Reserve; and

(D) for other treaties ceding a portion of risk to a different reinsurer, including stop loss, excess of loss, and other non-proportional reinsurance treaties, there will be no reduction in the required level of primary security. It is possible for a combination of (A), (B), (C), and (D) of this paragraph to apply. The adjustments to the required level of primary security will be done in the sequence that accurately reflects the

portion of the risk ceded via the treaty. The ceding insurer must document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100 percent of the risk. The adjustments for other reinsurance will be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer will make no adjustment as a result of a retrocession treaty entered into by the assuming insurers.

(5) in no event will the required level of primary security resulting from application of the actuarial method exceed the amount of statutory reserves ceded;

(6) if the ceding insurer cedes risks with respect to covered policies, including riders, in more than one reinsurance treaty subject to this section, in no event will the aggregate required level of primary security for those reinsurance treaties be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to this section;

(7) if a reinsurance treaty subject to this section cedes risk on both covered and non-covered policies, credit for the ceded reserves shall be determined as follows:

(A) the actuarial method shall be used to determine the required level of primary security for the covered policies, and (d) - (g) of this section shall be used to determine the reinsurance credit for the covered policy reserves; and

(B) credit for the non-covered policy reserves shall be granted only to the extent that security, in addition to the security held to satisfy the requirements of (A) of this paragraph, is held by or on behalf of the ceding insurer in accordance with AS 21.12.020(a) - (f). The primary security used to meet the requirements of this

subparagraph may not be used to satisfy the required level of primary security for the covered policies.

(d) For the purposes of both calculating the required level of primary security according to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer, the following shall apply:

(1) for assets, including assets held in trust, that would be admitted under the NAIC Accounting Practices and Procedures Manual if they were held by the ceding insurer, the valuations are to be determined according to statutory accounting procedures as if the assets were held in the ceding insurer's general account and without taking into consideration the effect of the prescribed or permitted practices; and

(2) for all other assets, the valuations are to be those that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the asset spread tables and asset default cost tables required by VM-20 shall be included in the actuarial method if adopted by the NAIC's Life Actuarial (A) Task Force not later than the Dec. 31st on or immediately preceding the valuation date for which the required level of primary security is being calculated. The tables of asset spreads and asset default costs shall be incorporated into the actuarial method in the manner specified in VM-20.

(e) Subject to the exemptions described in (i) of this section, and the provisions of (f) – (h) of this section, credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies under AS 21.12.020(a) - (f) if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:

(1) the ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of AS

21.18.110 – 21.18.112 and related regulations and actuarial guidelines, and credit claimed for a reinsurance treaty subject to this section does not exceed the proportionate share of those reserves ceded under the contract; and

(2) the ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to this section and provides support for its calculation as determined to be acceptable to the director; and

(3) funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of AS 21.12.020(c), on a funds withheld, trust, or modified coinsurance basis; and

(4) funds consisting of other security, in an amount at least equal to the portion of the statutory reserves as to which primary security is not held under (3) of this subsection, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of AS 21.12.020(c); and

(5) a trust used to satisfy the requirements of (e) - (f) of this section shall comply with all of the conditions and qualifications of 3 AAC 21.665, except that:

(A) funds consisting of primary security or other security held in trust, shall for the purposes identified in (d) of this section, be valued according to the valuation rules set out in (d) of this section, as applicable;

(B) there are no affiliate investment limitations with respect to the security held in a trust if the security is not needed to satisfy the requirements of (e)(3) of this section;

(C) the reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust, when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by (e)(3) of this section, below 102 percent of the level required by (e)(3) of this section at the time of the withdrawal or substitution; and

(D) the determination of reserve credit under 3 AAC 21.665(I) shall be determined according to the valuation rules set out in (d) of this section, as applicable;

(6) the reinsurance treaty has been approved by the director.

(f) The requirements of (e) of this section must be satisfied as of the date that risks under covered policies are ceded and on an ongoing basis thereafter. Under no circumstances may a ceding insurer take or consent to an action or series of actions that would result in a deficiency under (e)(3) or (e)(4) of this section with respect to a reinsurance treaty under which covered policies have been ceded, and if a ceding insurer becomes aware when a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

(g) Before the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of (b) of this section shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter the requirements of (e)(3) or (e)(4) of this section were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held under (e)(3) of this section, unless either:

(1) the requirements of (e)(3) or (e)(4) of this section were fully satisfied as of the valuation date as to the reinsurance treaty; or

(2) a deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security or other security, as the case may be, in the amount and in a form as would have caused the requirements of (e)(3) or (e)(4) of this section to be fully satisfied as of the valuation date.

(h) Nothing in (g)(2) shall be construed to allow a ceding company to maintain a deficiency under (e)(3) or (e)(4) of this section for a period of time longer than is reasonably necessary to eliminate it.

(i) This section does not apply to the following situations:

(1) the reinsurance of:

(A) policies that satisfy the criteria for exemption set out in 3 AAC 21.915(i)(1) – (6); and which are issued before the effective date of this section;

(B) portions of policies that satisfy the criteria for exemption set out in 3 AAC 21.915(c) and which are issued before the effective date of this section;

(C) a universal life policy that meets all of the following requirements:

(i) secondary guarantee period is five years or less;

(ii) specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the Commissioners Standard Ordinary valuation tables and valuation interest rate applicable to the issue year of the policy; and

(iii) the initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period;



(D) credit life insurance;

(E) a variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of the separate account or accounts; or

(F) a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required to continue coverage in force for a period in excess of one year.

(2) reinsurance ceded to an assuming insurer that meets the applicable requirements of AS 21.12.020(a)(4); or

(3) reinsurance ceded to an assuming insurer that meets the applicable requirements of AS 21.12.020(a)(1) – (3), and that, in addition:

(A) prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual, without departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer according to Statement of Statutory Accounting Principles No. 1 ("SSAP 1"); and

(B) is not in a company action level event, regulatory action level event, authorized control level event, or mandatory control level event as those terms are defined in AS 21.14.010 – AS 21.14.200 when its risk based capital is calculated in accordance with the life risk-based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation; or

(4) reinsurance ceded to an assuming insurer that meets the applicable requirements of AS 21.12.020(a)(1) – (3), and that, in addition:

(A) is not an affiliate, as that term is defined in AS 21.22.200(2), of:

(i) the insurer ceding the business to the assuming insurer; or

(ii) an insurer that directly or indirectly ceded the business to that ceding insurer;

(B) prepares statutory financial statements in compliance with the NAIC Accounting Practices and Procedures Manual;

(C) is both:

(i) licensed or accredited in at least 10 states, including its state of domicile, and

(ii) not licensed in a state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or other similar licensing regimes; and

(D) is not, or would not be, below 500 percent of the authorized control level risk based capital as that term is defined in AS 21.14.200 when its risk based capital is calculated in accordance with the life risk based capital report including overview and instructions for companies, as the same may be amended by the NAIC from time to time, without deviation, and without recognition of departures from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus; or

(5) reinsurance ceded to an assuming insurer that meets the requirements of AS 21.12.020(g)(2)(D); or

(6) reinsurance not otherwise exempt under paragraphs (1) – (5) of this subsection if the director, after consulting with the NAIC Financial Analysis Working Group (FAWG) or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:

(A) the risks are clearly outside of the intent and purpose of this section;

(B) the risks are included within the scope of this section only as a technicality; and

(C) the application of this section to those risks is not necessary to provide appropriate protection to policyholders. The director shall publicly disclose a decision made under this paragraph to exempt a reinsurance treaty from this section, as well as the general basis, including a summary description of the treaty.

(j) No insurer that has covered policies as to which this regulation applies as set forth in (b) of this section shall take any action or series of actions, or enter into any transaction or arrangement or series of transactions or arrangements if the purpose of such action, transaction or arrangement or series thereof is to avoid the requirements of this regulation, or to circumvent its purpose and intent, as set forth in (a) of this section.

(k) If any provision of this regulation is held invalid, the remainder shall not be affected.

(Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 21.06.090 AS 21.12.020 AS 21.18.110

AS 21.18.112

3 AAC 21 is amended by adding a new section to read:

**3 AAC 21.659. Reciprocal Jurisdictions.** (a) Under AS 21.12.020(a)(6), the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction, and which meets the other requirements of this regulation.

(b) A “reciprocal jurisdiction” is a jurisdiction, as designated by the director under 3 AAC 21.659(d), that meets one of the following:

(1) a non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a “covered agreement” is an agreement entered into under the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into a reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

(2) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

(3) a qualified jurisdiction, as determined by the director under AS 21.12.020(a)(5)(C) and 3 AAC 21.694(n) - (q), which is not otherwise described in (1) or (2) of this subsection and which the director determines meets all of the following additional requirements:

(A) provides that an insurer which has its head office or is domiciled in a qualified jurisdiction shall receive credit for reinsurance ceded to a U.S.-domiciled

assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in a qualified jurisdiction;

(B) does not require a U.S.-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with a ceding insurer subject to regulation by the non-U.S. jurisdiction or as a condition to allow the ceding insurer to recognize credit for the reinsurance;

(C) recognizes the U.S. state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in a qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the director or the insurance supervisory official of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

(D) provides written confirmation by a competent regulatory authority in a qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the director in accordance with a memorandum of understanding or similar document between the director and a qualified jurisdiction, including the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

(c) Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the following conditions:

(1) the assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction;

(2) the assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set out in 3 AAC 21.659(c)(7) according to the methodology of its domiciliary jurisdiction, in the following amounts:

(A) no less than \$250,000,000; or

(B) if the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(i) minimum capital and surplus equivalents, net of liabilities, or own funds of the equivalent of at least \$250,000,000; and

(ii) a central fund containing a balance of the equivalent of at least \$250,000,000.

(3) the assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

(A) if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in 3 AAC 21.659(b)(1), the ratio specified in the applicable covered agreement;

(B) if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in 3 AAC 21.659(b)(2), a risk-based capital ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

(C) if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in 3 AAC 21.659(b)(3), after consultation with the reciprocal jurisdiction and considering recommendations published through the NAIC Committee Process, a solvency or capital ratio as the director determines to be an effective measure of solvency.

(4) the assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1, of its agreement to the following:

(A) the assuming insurer must agree to provide prompt written notice and explanation to the director if it falls below the minimum requirements set out in 3 AAC 21.659(c)(2) or (3), or if a regulatory action is taken against it for serious noncompliance with applicable law;

(B) the assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the director as agent for service of process. The director may also require that consent be provided and included in each reinsurance agreement under the director's jurisdiction. Nothing in this provision shall limit or alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent the agreements are unenforceable under applicable insolvency or delinquency laws;

(C) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained;

(D) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded under that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable;

(E) the assuming insurer must confirm that it is not presently participating in a solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the director and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into a solvent scheme of arrangement. The security shall be in a form consistent with the provisions of AS 21.12.020(a)(5), AS 21.12.020(c), 3 AAC 21.662, 3 AAC 21.664, 3 AAC 21.670, and 3 AAC 21.685. For purposes of this regulation, the term "solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may



be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction; and

(F) the assuming insurer must agree in writing to meet the applicable information filing requirements as set out in 3 AAC 21.659(c)(5).

(5) the assuming insurer or its legal successor must provide, if requested by the director, on behalf of itself and its legal predecessors, the following documentation to the director:

(A) for the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

(B) for the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

(C) before entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

(D) before entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set out in 3 AAC 21.659(c)(6).

(6) the assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if the following criteria is met:

(A) more than 15 percent of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the director;

(B) more than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

(C) the aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a covered agreement.

(7) the assuming insurer's supervisory authority must confirm to the director on an annual basis that the assuming insurer complies with the requirements set out in 3 AAC 21.659(c)(2) and (3); and

(8) nothing in this provision precludes an assuming insurer from providing the director with information on a voluntary basis.

(d) The director shall timely create and publish a list of reciprocal jurisdictions considering the following:

(1) the director's list shall include reciprocal jurisdictions as defined under 3 AAC 21.659(b)(1) and (2), and shall consider other reciprocal jurisdictions included on the NAIC list of reciprocal jurisdictions. The director may approve a jurisdiction that does not appear on the

NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC Committee Process; and

(2) the director may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC Committee Process, except that the director shall not remove from the list a reciprocal jurisdiction as defined under 3 AAC 21.659(b)(1) and (2). Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed under AS 21.12.020 or 3 AAC 21.600-695.

(e) The director shall timely create and publish a list of assuming insurers that have satisfied the following conditions set out in this section and to which cessions shall be granted credit in accordance with this section:

(1) if an NAIC accredited jurisdiction has determined that the conditions set out in 3 AAC 21.659(c) have been met, the director has the discretion to defer to that jurisdiction's determination, and add an assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The director may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of 3 AAC 21.659(c); and

(2) when requesting that the director defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the director may require. A state that has received a request will

notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

(f) If the director determines that an assuming insurer no longer meets one or more of the requirements under this section, the director may revoke or suspend the eligibility of the assuming insurer for recognition under this section. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with 3 AAC 21.662. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into before the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the director and consistent with the provisions of 3 AAC 21.662.

(g) Before denying statement credit or imposing a requirement to post security with respect to (f) of this section, or adopting similar requirements that will have substantially the same regulatory effect as security, the director shall:

(1) communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in (c) of this section;

(2) provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protections;

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(3) after the expiration of 90 days or less, as set out in (2) of this subsection, if the director determines that no or insufficient action was taken by the assuming insurer, the director may impose the requirements as set out in this subsection; and

(4) provide a written explanation to the assuming insurer of the requirements set out in this subsection.

(h) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

(i) Nothing in AS 21.12.020(i) shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to renegotiate the agreement. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority** AS 21.06.090 AS 21.12.020

3 AAC 21.694(f)(8) is amended to read:

(8) for certified reinsurers not domiciled in the United States, audited financial statements, [AUDITED UNITED STATES GAAP BASIS IF AVAILABLE, AUDITED IFRS BASIS STATEMENTS ARE ALLOWED BUT MUST INCLUDE AN AUDITED FOOTNOTE RECONCILING EQUITY AND NET INCOME TO A UNITED STATES GAAP BASIS, OR, WITH THE PERMISSION OF THE STATE INSURANCE DIRECTOR, AUDITED IFRS STATEMENTS WITH RECONCILIATION TO UNITED STATES GAAP CERTIFIED BY AN OFFICER OF THE COMPANY,] regulatory filings, and actuarial opinion as filed with the non-United States jurisdiction supervisor, **with a translation into English**, upon the initial

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application for certification, the director will consider audited financial statements for the last **two** [THREE] years filed with its non-United States jurisdiction supervisor;

3 AAC 21.694(i)(4) is amended to read:

(4) annually, **the most recent** audited financial statements, [AUDITED UNITED STATES GAAP BASIS IF AVAILABLE, AUDITED IFRS BASIS STATEMENTS ARE ALLOWED BUT MUST INCLUDE AN AUDITED FOOTNOTE RECONCILING EQUITY AND NET INCOME TO A UNITED STATES GAAP BASIS, OR, WITH THE PERMISSION OF THE STATE INSURANCE DIRECTOR, AUDITED IFRS STATEMENTS WITH RECONCILIATION TO UNITED STATES GAAP CERTIFIED BY AN OFFICER OF THE COMPANY,] regulatory filings, and actuarial opinion, as filed with the certified reinsurer's supervisor, **with a translation into English**, upon the initial application for certification, the director will consider audited financial statements for the last **two** [THREE] years filed with its non-United States jurisdiction supervisor; (Eff. 12/26/2019, Register 232; am

\_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority** AS 21.06.090 AS 21.12.020

3 AAC 21.695 is amended by adding new paragraphs to read:

(13) “actuarial method” means the methodology used to determine the required level of primary security, as described in 3 AAC 21.615(b).

(14) “covered policies” means the following: subject to the exemptions described in 3 AAC 21.615(h), covered policies are those policies, other than grandfathered policies, of the following policy types:

(A) life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, except for flexible premium universal life insurance policies; or,

(B) flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period.

(15) “grandfathered policies” means policies of the types described in (14)(A) and (14)(B) that were:

(A) issued before January 1, 2015; and

(B) ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met one of the exemptions set out in 3 AAC 21.615(h) had that subsection then been in effect.

(16) “non-covered policies” means a policy that does not meet the definition of covered policies, including grandfathered policies.

(17) “required level of primary security” means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

(18) “primary security” means the following forms of security:

(A) cash meeting the requirements of AS 21.12.020(c)(1);

(B) securities listed by the Securities Valuation Office meeting the requirements of AS 21.12.020(c)(2), but excluding a synthetic letter of credit, contingent note, credit-linked note or other similar security that operates in a manner similar to a

letter of credit, and excluding the securities issued by the ceding insurer or its affiliates;  
and

(C) for security held in connection with funds-withheld and modified  
coinsurance reinsurance treaties:

(i) commercial loans in good standing of CM3 quality and higher;

(ii) policy loans; and

(iii) derivatives acquired in the normal course and used to support  
and hedge liabilities pertaining to the actual risks in the policies ceded under the  
reinsurance treaty.

(19) “other security” means the security acceptable to the director other than  
security meeting the definition of primary security.

(20) “valuation manual” means the valuation manual adopted by the NAIC as  
described in AS 21.18.112, with all amendments adopted by the NAIC that are effective for the  
financial statement date on which credit for reinsurance is claimed.

(21) “VM-20” means “Requirements for Principle-Based Reserves for Life  
Products,” including all relevant definitions, from the valuation manual. (Eff. 8/31/2008,  
Register 187; am 12/31/2010, Register 196; am \_\_\_/\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 21.06.090 AS 21.12.020

3 AAC 25.100(c) is amended to read:

(c) The quarterly report must include the initial placement of coverage as well as changes  
in coverage during that period that result in an increase or decrease of premiums, taxes, or fees.

**The surplus lines broker shall use the effective date for the initial placement of coverage.**



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**Initial placement of coverage includes new and renewal transactions.** (Eff. 8/28/91, Register 119; am 3/11/98, Register 145; am 6/11/2006, Register 178; am 7/25/2008, Register 187; am 12/28/2008, Register 188; am 9/4/2014, Register 211; am 12/20/2020, Register 236; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

|                   |              |              |              |
|-------------------|--------------|--------------|--------------|
| <b>Authority:</b> | AS 21.06.090 | AS 21.34.080 | AS 21.34.170 |
|                   | AS 21.34.180 | AS 21.34.190 | AS 21.34.250 |