

Summary of Tenth Amendment to 11 NYCRR 125 (Regulations No. 17, 20, and 20-A)

The following is a summary of the substance of the rule:

Sections 125.1, 125.2 and 125.3 are repealed to delete redundant and dated insolvency clause requirements.

The new Section 125.1 is an applicability clause. It provides that this Part shall apply to reinsurance ceded by an insurer authorized to do business in this State, provided that where the state of domicile of a foreign ceding insurer is an NAIC-accredited state, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then the foreign ceding insurer may take credit for the reinsurance.

The new Section 125.2 defines certain terms used in this Part.

A new Section 125.3 is proposed to apply principles of prudent reinsurance credit risk management to all licensed ceding insurers subject to the Part.

Section 125.4 is amended to include a new Section 125.4(h) to provide alternative credit for cessions to unauthorized assuming insurers. This section adjusts the credit that the ceding insurer may take in its financial statement based upon the financial strength of the unauthorized assuming insurer. In order to allow the ceding insurer to take full credit for the reinsurance without the assuming insurer posting 100% collateral, the unauthorized assuming insurer in the transaction must:

- 1) maintain a minimum net worth of \$250 million;
- 2) be authorized and meet the standards of solvency and capital adequacy in its domiciliary jurisdiction;
- 3) have a credit rating from at least two rating agencies;
- 4) file documents with the Superintendent evidencing its financial condition; and
- 5) have been assigned a rating from the Superintendent authorizing the ceding insurer to take credit for the reinsurance without the assuming insurer posting 100% collateral.

Moreover, to qualify for the reduced credit with respect to cessions to an unauthorized assuming insurer, the Superintendent and the domiciliary regulator of the unauthorized assuming insurer must have in place an executed memorandum of understanding pursuant to this Part. Further, the domiciliary jurisdiction of an unauthorized assuming insurer shall allow U.S. assuming insurers access to the market of that jurisdiction on terms and conditions that are at least as favorable as those provided in New York laws and regulations for unauthorized assuming insurers.

Ceding insurers seeking alternative credit for cessions to unauthorized assuming insurers must maintain audited financial statements for the unauthorized assuming insurers for the last three years, and maintain satisfactory evidence that an unauthorized assuming insurer meets the requirements mentioned above.

The reinsurance contract itself must contain an insolvency clause, a designation of a person in New York or the ceding insurer's domestic state for service of process, a requirement that any disputes will be subject to United States courts and laws, and a requirement that the unauthorized assuming insurer will notify the ceding insurer of any changes in its license status or any change in its rating from a credit rating agency.

While this alternative credit for cessions to unauthorized assuming insurers will reduce the collateral requirement in a manner that corresponds to the financial strength of the unauthorized assuming insurer, where an order of rehabilitation, liquidation or conservation is entered against the ceding insurer, the unauthorized assuming insurer must, as a general matter, post full collateral for all outstanding liabilities owed to the ceding insurer.

Section 125.5 is amended to correct various references to other sections.

Section 125.6 is amended to correct various references to other sections.