

**Sec. 38a-88-4a. Credit for reinsurance – certified reinsurers**

(a) (1) The Commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Commissioner. The security shall be in a form consistent with the provisions of sections 38a-85, 38a-85a and 38a-86 of the Connecticut General Statutes, and sections 38a-88-7, 38a-88-8, or 38a-88-9 of the Regulations of Connecticut State Agencies. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

<b>Ratings</b>	<b>Security Required</b>
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

(2) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(3) The Commissioner shall require the certified reinsurer to post one hundred percent (100%) security, for the benefit of the ceding insurer or its estate, upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding insurer as a result of a loss from a catastrophic occurrence as recognized by the Commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner in compliance with its contractual obligations as set forth in the reinsurance agreement under which the claims are ceded. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- (A) Line 1: Fire
- (B) Line 2: Allied Lines
- (C) Line 3: Farmowners multiple peril
- (D) Line 4: Homeowners multiple peril
- (E) Line 5: Commercial multiple peril
- (F) Line 9: Inland Marine
- (G) Line 12: Earthquake
- (H) Line 21: Auto physical damage

(5) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification

of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

**(b) Certification Procedure.**

(1) The Commissioner shall post notice on the Insurance Department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Commissioner shall not take final action on the application until at least thirty (30) days after posting the notice required by this subdivision.

(2) The Commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer pursuant to subsection (a)(1) of this section. The Commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(A) The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the Commissioner pursuant to subsection (c) of this section.

(B) The assuming insurer shall maintain capital and surplus, or its equivalent, of no less than \$250,000,000 determined in accordance with subdivision (4)(H) of this subsection. This requirement may also be satisfied by a group including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.

(C) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the Commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (i) Standard & Poor's;
- (ii) Moody's Investors Service;
- (iii) Fitch Ratings;
- (iv) A.M. Best Company; or
- (v) Any other Nationally Recognized Statistical Rating Organization.

(D) The certified reinsurer shall comply with any other requirements reasonably imposed by the Commissioner as necessary or appropriate for the protection of the policyholders of the ceding insurer or in the public interest.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration

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being given to the group rating where appropriate, except that a group including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include the following:

(A) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

(B) The business practices of the certified reinsurer in dealing with its ceding insurers, including its compliance with reinsurance contractual terms and obligations;

(C) For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

(D) For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers)(Appendix D of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies) or Form CR-S (for life and health reinsurers)(Appendix E of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies);

(E) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

(F) Regulatory actions against the certified reinsurer;

(G) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (4)(H) of this subsection;

(H) For certified reinsurers not domiciled in the United States, audited financial

statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the Commissioner will consider audited financial statements for the last 2 years filed with its non-United States jurisdiction supervisor;

(I) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

(J) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The Commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

(K) Any other information deemed relevant by the Commissioner as necessary or appropriate for the protection of the policyholders of the ceding insurer or in the public interest.

(5) Based on the analysis conducted under subdivision (4)(E) of this subsection of a certified reinsurer's reputation for prompt payment of claims, the Commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the Commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subsection (b)(4)(A) of this section if the Commissioner finds that:

(A) more than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$100,000 for each cedent;

(B) the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds \$50,000,000; or

(C) the certified reinsurer exhibits qualities or characteristics of a troubled insurer as described in sections 38a-8-101 to 38a-8-104, inclusive, of the Regulations of Connecticut State Agencies.

(6) The assuming insurer shall submit a properly executed Form CR-1 (Appendix B of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies) as evidence of its submission to the jurisdiction of this state, appointment of the Commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final U.S. judgment. The Commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(7) The certified reinsurer shall agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis, and indicate in writing those portions of its filings that it believes are exempt from disclosure pursuant to section 1-210(b)(5) of the Connecticut General Statutes. The applicable information filing requirements are, as follows:

(A) Notification not later than 10 days after any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in

rating by an approved rating agency, including a statement describing such changes and the reasons therefor;

(B) Annually, Form CR-F (Appendix D of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies) or Form CR-S (Appendix E of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies), as applicable;

(C) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subparagraph (D) of this subdivision;

(D) Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last 2 years filed with the certified reinsurer's supervisor;

(E) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;

(F) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

(G) Any other information that the Commissioner may reasonably require as necessary or appropriate for the protection of the policyholders of the ceding insurer or in the public interest.

(8) Change in Rating or Revocation of Certification.

(A) In the case of a downgrade by a rating agency or other disqualifying circumstance, the Commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subdivision (4)(A) of this subsection.

(B) The assuming reinsurer's certification and rating are contingent upon the reinsurer maintaining its current financial condition. Any deterioration, as evidenced by qualities or characteristics of a troubled insurer in accordance with sections 38a-8-101 to 38a-8-104, inclusive, of the Regulations of Connecticut State Agencies, may result in a change in the reinsurer's rating or revocation or certification. The Commissioner shall have the authority to suspend or revoke a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the Commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(C) If the rating of a certified reinsurer is upgraded by the Commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Commissioner, the Commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(D) Upon revocation of the certification of a certified reinsurer by the Commissioner, the assuming insurer shall be required to post security in accordance with section 38a-88-

6 of the Regulations of Connecticut State Agencies in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with section 38a-88-4 of the Regulations of Connecticut State Agencies, the Commissioner may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Commissioner to be at high risk of uncollectibility.

**(c) Qualified Jurisdictions.**

(1) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-United States assuming insurer, the Commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Commissioner shall publish notice and evidence of such recognition in an appropriate manner. The Commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(2) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The Commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Commissioner as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the Commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Commissioner, include the following:

(A) The framework under which the assuming insurer is regulated.

(B) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(C) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(D) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(E) The domiciliary regulator's willingness to cooperate with United States regulators in general and the Commissioner in particular.

(F) The history of performance by assuming insurers in the domiciliary jurisdiction.

(G) Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Commissioner has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.

(H) Any relevant international standards or guidance with respect to mutual recognition



of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

(I) Any other matters deemed relevant by the Commissioner for the evaluation of the appropriateness and effectiveness of the reinsurance supervisory system within the non-United States jurisdiction.

(3) If the NAIC publishes a list of qualified jurisdictions, the Commissioner shall consider this list in determining qualified jurisdictions. If the Commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commissioner shall provide thoroughly documented justification with respect to the criteria provided under subdivisions (2)(A) to (I), inclusive, of this subsection.

(4) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

**(d) Recognition of Certification Issued by an NAIC Accredited Jurisdiction.**

(1) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (Appendix B of sections 38a-88-1 to 38a-88-12, inclusive, of the Regulations of Connecticut State Agencies) and such additional information as the Commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(2) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the Commissioner of any change in its status or rating not later than 10 days after receiving notice of the change.

(3) The Commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating pursuant to the provisions of this section.

(4) The Commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the Commissioner suspends or revokes the certified reinsurer's certification pursuant to subdivision (8)(B) of subsection (b) of this section, the certified reinsurer's certification shall remain in good standing in this State for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State.

(e) **Mandatory Funding Clause.** In addition to the clauses required under section 38a-88-10 of the Regulations of Connecticut State Agencies, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(f) The Commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

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