

To: Director John M. Huff (MO), Chair—Reinsurance (E) Task Force

From: Steve Johnson (PA), Chair—Reinsurance Financial Analysis (E) Working Group

Date: August 16, 2015

Re: Updated Uniform Checklist for Certified Reinsurers

On a conference call of the Reinsurance (E) Task Force on December 11, 2014, the Task Force adopted the *Uniform Application Checklist for Certified Reinsurers* (Checklist). During that call, we confirmed “that the [Reinsurance Financial Analysis (E)] Working Group is continuing to work on a uniform renewal date and the concept of a uniform renewal date process...the Task Force should move forward today with approving the Checklist, so that applicants and regulators can begin using it and to make the process more streamlined. The Working Group will continue to work on issues with respect to the Checklist, and may consider an open conference call with interested parties to further discuss these issues during the coming year.”

During a regulator-to-regulator call of the Working Group on June 23, 2015, the Working Group reviewed a proposal from DLA Piper regarding suggested language within the Checklist. Specifically, the proposal addressed parameters regarding material past due reinsurance obligations to U.S. cedents within the *Disputed and/or Overdue Reinsurance Claims/Business Practices* section of the Checklist. In addition, language within this section was adjusted to remove the statement, “including its record of compliance with reinsurance contractual terms” regarding the rationale for overdue balances. Lastly, the statement, “Upon receipt of such notice and explanation, the Commissioner may request additional information concerning the applicant’s claims practices with regards to any or all US ceding insurers” was added as a closing paragraph for the section. Following a discussion of the proposal, a vote was taken and the Working Group unanimously approved the proposed language to the Checklist. Attached is a redlined draft of the Checklist approved by the Working Group for consideration by the Task Force for use by the states and the Working Group with respect to the certified reinsurer passporting process.

Uniform Application Checklist for Certified Reinsurers

(Initial and Renewal Applications)

DRAFT June 2015

I. Applicant Information

Company Name: Address: Primary Contact: Domiciliary Jurisdiction / Supervisory Authority: Applicable Lines of Business:

II. Filing Requirements for Reinsurer Currently Certified by Another NAIC-Accredited Jurisdiction

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 has the discretion to defer to the rating assigned by that jurisdiction; i.e., “passporting.”

- a. Has the applicant been certified by an NAIC accredited jurisdiction? (Yes or No) ____;
 [If “Yes”, this state will confirm that the initial or renewal certification has been reviewed by the NAIC Reinsurance Financial Analysis (E) Working Group for passporting purposes.]
- b. If the answer to question II.a. is “No”, please proceed to Section III of this application.
- c. If the answer to question II.a. is “Yes”, the applicant shall provide the information required under Section II for consideration by the Commissioner:

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	Status of Domiciliary Jurisdiction: The applicant must be domiciled and licensed in a Qualified Jurisdiction, as determined by this state.		
	Verification of Certification Issued by an NAIC Accredited Jurisdiction: If the applicant is requesting that the Commissioner recognize the certification issued by another NAIC accredited jurisdiction (i.e., passporting), the applicant must provide a copy of the approval letter or other documentation provided to the applicant by such NAIC accredited jurisdiction. At a minimum, this letter must confirm the following information: <ol style="list-style-type: none"> a. Name of state(s) in which applicant is currently certified. b. The rating and collateral percentage assigned with respect to the applicant. 		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<ul style="list-style-type: none"> c. The effective and expiration dates with respect to the certification. d. The lines of business to which the certification is applicable. e. The applicant’s commitment to comply with all requirements necessary to maintain certification. 		
	<p>Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer: The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. If the applicant intends to utilize a multibeneficiary trust for this purpose, the applicant must submit (1) the form of the trust that will be used to secure obligations incurred as a certified reinsurer; and (2) the form of the trust that will be used to secure obligations incurred outside of the applicant’s certified reinsurer status, i.e., the applicant’s 100% collateralized trust (if applicable). The form of each trust is required to be submitted pursuant to state law in order to ensure that security for these obligations will be kept separate and to ensure that each trust meets the requirements of the state’s Credit for Reinsurance statute and/or regulation.</p>		
	<p>Form CR-1 (For Initial and Renewal Applications): The applicant must provide [insert name of state] Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form. [Insert link to copy of form on state web site.]</p>		
	<p>Fee: [Insert \$ amount of the fee applicable in this state.]</p>		
	<p>Other Requirements: The applicant must:</p> <ul style="list-style-type: none"> a. Commit to comply with other reasonable requirements deemed 		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<p>necessary for certification by the certifying state. Failure to comply with such other requirement could disqualify the reinsurer from certification.</p> <p>b. Provide a statement that the applicant agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.</p>		
	<p>Public Notice Requirement: The [Commissioner] is required to 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] may not take final action on the application until at least [insert number of days required in the specific state] days after posting such notice. The [Commissioner] will consider any comments received during the public notice period with respect to this application.</p>		

III. Filing Requirements for Full Application

- a. The applicant shall provide the information required under Section III if:
 - i. the applicant has not been certified by an NAIC accredited jurisdiction
 - ii. the Commissioner makes a determination not to recognize or defer to the certification issued by another NAIC accredited jurisdiction; or
 - iii. the applicant is renewing its certification by an NAIC accredited jurisdiction.

b. Check appropriate box:

Initial Application Renewal Application

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<p>Status of Domiciliary Jurisdiction / Proof of Licensure and Good Standing: The applicant must be domiciled and licensed in a Qualified Jurisdiction, as determined by this state. The applicant</p>		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<p>must be in good standing (or the jurisdiction’s equivalent classification) and maintain capital and surplus in excess of its domiciliary jurisdiction’s highest regulatory action level.</p> <p>The Commissioner will consider the following information with respect to the applicant’s domiciliary jurisdiction:</p> <ul style="list-style-type: none"> a. Whether the domestic supervisory authority been approved as a Qualified Jurisdiction in this state. b. Confirmation as to whether the domestic supervisory authority is included on the NAIC List of Qualified Jurisdictions. <p>The applicant must provide the following information:</p> <ul style="list-style-type: none"> a. A copy of the certificate of authority or license to transact insurance and/or reinsurance from the applicant’s domiciliary jurisdiction. b. A certification from the applicant’s domestic supervisory authority affirming that the applicant is in good standing (or the jurisdiction’s equivalent classification) and maintains capital and surplus in excess of the jurisdiction’s highest regulatory action level. 		
	<p>Mechanisms Used to Secure Obligations Incurred as a Certified Reinsurer: The applicant must specify the mechanisms it will use to secure obligations incurred as a Certified Reinsurer. If the applicant intends to utilize a multibeneficiary trust for this purpose, the applicant must submit (1) the form of the trust that will be used to secure obligations incurred as a certified reinsurer; and (2) the form of the trust that will be used to secure obligations incurred outside of the applicant’s certified reinsurer status, i.e., the applicant’s 100% collateralized trust (if applicable). The form of each trust is required to be submitted pursuant to state law in order to</p>		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	ensure that security for these obligations will be kept separate and to ensure that each trust meets the requirements of the state’s Credit for Reinsurance statute and/or regulation.		
	<p>Financial Strength Ratings: The applicant must maintain interactive financial strength ratings from two or more acceptable rating agencies. The applicant must provide the following:</p> <ol style="list-style-type: none"> a. Confirm all interactive financial strength ratings currently maintained by the applicant. b. Copies of full rating agency reports with respect to all financial strength ratings currently maintained by the applicant, if available. If a full report is not available, the applicant must provide a letter from the applicable rating agency confirming its current financial strength rating. c. A description of any changes within the last three years in the financial strength rating from an approved rating agency. <p>NOTE: Acceptable rating agencies include A.M. Best, Fitch Ratings, Moody’s Investor Service, Standard & Poor’s, or any other Nationally Recognized Statistical Rating Organization.</p>		
	<p>Disputed and/or Overdue Reinsurance Claims / Business Practices: The Commissioner may consider the applicant’s business practices in dealing with its ceding insurers, including compliance with contractual terms and obligations. The applicant must provide the following if 1) at the individual cedent level, the reinsurer has 10% or more of its applicant’s <u>reinsurance obligations to U.S. cedents that payable in are in</u> dispute and/or more than 90 days past due exceed 5% to any of its top 15 individual US cedents, based on amount of total <u>reinsurance obligations to U.S. cedents as of the end of its prior financial reporting year; assumed,</u></p>		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	Reference and Supporting Documents
	<p>or 2) the applicant's reinsurance obligations to any of the top 10 at the aggregate level with respect to U.S. cedents (based on the amount of outstanding reinsurance obligations as of the end of its prior financial reporting year); the reinsurer has claims that are in dispute and/or more than 90 days past due exceed that are 10% or more of its total reinsurance obligations payable to that all U.S. cedents.</p> <p><u>Then, in either case, the applicant will provide:</u></p> <p>a. <u>Notice of that fact to the Commissioner and a detailed explanation regarding the reason(s) for the amount of A list and description of all reinsurance claims that are in disputed or overdue claims exceeding the levels noted above; and and/or more than 90 days past due regarding reinsurance assumed from U.S. domestic ceding insurers.</u></p> <p>b. <u>A description of the applicant's business practices in dealing with U.S. ceding insurers, including its record of compliance with reinsurance contractual terms, and a statement that the applicant commits to comply with all contractual requirements applicable to reinsurance contracts with U.S. ceding insurers.</u></p> <p><u>Upon receipt of such notice and explanation, the Commissioner may request additional information concerning the applicant's claims practices with regard to any or all U.S. ceding insurers.</u></p>		
	<p>Schedules for Reinsurance Assumed and Reinsurance Ceded: The applicant must provide the following:</p> <p>a. For applicants domiciled in the U.S., provide the most recent NAIC Annual Statement Blank Schedule F (property/casualty) and/or Schedule S (life and health).</p>		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<p>b. For applicants domiciled outside the U.S. provide Form CR-F (property/casualty) and/or Form CR-S (life and health), completed in accordance with the instructions adopted by the NAIC [include link to instructions.]</p>		
	<p>Regulatory Actions: The applicant must provide a description of any regulatory actions taken against the applicant.</p> <p>a. Include all regulatory actions, fines and penalties, regardless of the amount.</p> <p>b. Provide a description of any changes in with respect to the provisions of the applicant’s domiciliary license.</p> <p>[NOTE: Reinsurance-FAWG requires this information for the last three years for passporting purposes.]</p>		
	<p>Financial/Regulatory Filings: The applicant must provide the following:</p> <p>a. A copy of the most recent report of the independent auditor.</p> <p>b. Copies of the audited financial statements for the last three years. Financial statements must demonstrate that the applicant has minimum capital and surplus, or the equivalent, of at least \$250,000,000. If the applicant is an association including incorporated and individual unincorporated underwriters, statements must demonstrate that the applicant has 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. Please note the following requirements with respect to these financial statements:</p> <ul style="list-style-type: none"> • Audited U.S. GAAP basis statements must be submitted if available. • Audited IFRS basis statements are 		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	<p>acceptable but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis.</p> <ul style="list-style-type: none"> • With the permission of the Commissioner, an applicant may be allowed to submit audited IFRS basis statements with reconciliation to U.S. GAAP certified by an officer of the applicant. • Upon the initial certification, the Commissioner may consider audited financial statements for the last three years as filed with the applicant’s non-U.S. jurisdiction supervisor. If the Commissioner accepts such statements in the initial filing, the applicant must acknowledge and commit that future financial statement filings will include the appropriate reconciliation to a U.S. GAAP basis, as indicated above. <p>c. A copy of the Actuarial Opinion and other regulatory filings, as filed with the applicant’s domiciliary supervisor. [NOTE: Reinsurance-FAWG requires a stand-alone Actuarial Opinion for passporting purposes.]</p>		
	<p>Solvent Schemes of Arrangement: The applicant must provide:</p> <ul style="list-style-type: none"> a. A description of any past, present or proposed future participation in any solvent scheme of arrangement, or similar procedure, involving U.S. ceding insurers. b. A statement that the applicant commits to notify the commissioner of any future proposed participation in any solvent scheme of arrangement, or similar procedure, as soon as practicable. 		
	<p>Form CR-1 (For Initial and Renewal Applications):</p>		

Citation to State Law / Regulation	<u>Requirements</u>	Y or N	<u>Reference and Supporting Documents</u>
	The applicant must provide [insert name of state] Form CR-1, which must be properly executed by an officer authorized to bind the applicant to the commitments set forth in the form. [Insert link to copy of form on state web site.]		
	Fee: [Insert \$ amount of the fee applicable in this state.]		
	Other Requirements: The applicant must: a. Commit to comply with other reasonable requirements deemed necessary for certification by the certifying state. b. Provide a statement that the applicant agrees to post 100% security upon the entry of an order of rehabilitation or conservation against the ceding insurer or its estate.		
	Public Notice Requirement: The [Commissioner] is required to 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] may not take final action on the application until at least [insert number of days required in the specific state] days after posting such notice. The [Commissioner] will consider any comments received during the public notice period with respect to this application.		