

Substance for Tenth Amendment to 11 NYCRR 125 (Regulation No. 20)

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Sections 125.1, 125.2 and 125.3 are repealed to delete redundant and dated insolvency clause requirements and a new Section 125.1 is proposed to apply principle-based credit risk management standards to all licensed ceded insurers.

Section 125.4 is renumbered Section 125.2 and amended to include a new Section 125.2(h) to provide alternative credit for cessions to unauthorized reinsurers. This alternative credit to unauthorized reinsurers adjusts the credit that the ceding insurer may take in its financial statement based upon the financial strength of the unauthorized assuming reinsurer. In order to qualify for the reduced credit, the unauthorized assuming reinsurer in the transaction must:

- maintain a minimum net worth of \$250 million;
- be authorized and meet the standards of solvency and capital adequacy in its domiciliary jurisdiction; and
- have a credit rating from at least two rating agencies.

Moreover, to qualify for the reduced credit with respect to cessions to an unauthorized non-U.S. assuming insurer, the superintendent and the domiciliary regulator of the unauthorized non-U.S. assuming reinsurer must have in place an executed memorandum of understanding pursuant to this part. Further, the domiciliary jurisdiction of an unauthorized non-U.S. assuming reinsurer shall allow U.S. reinsurers 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 non-U.S. assuming insurers.

Ceding insurers seeking alternative credit for cessions to unauthorized reinsurers must maintain audited financial statements for the unauthorized assuming reinsurers for the last three years, and maintain satisfactory evidence that an unauthorized reinsurer 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 reinsurer 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 reinsurers will reduce the collateral requirement in a manner that corresponds to the financial strength of the reinsurer, where an order of rehabilitation, liquidation or conservation is entered against the ceding insurer, the unauthorized assuming reinsurer must, as a general matter, post full collateral for all outstanding liabilities owed to the ceding insurer.

Section 125.5 is renumbered Section 125.3 and various references to other sections are corrected.

Section 125.6 is renumbered Section 125.4 and various references to other sections are corrected.

Section 125.7 is renumbered Section 125.5 and a reference to another section is corrected.

Section 125.8 is renumbered Section 125.6.