

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
Guaynabo, Puerto Rico

AMENDMENT TO RULE NUMBER 98 OF THE REGULATIONS OF THE PUERTO
RICO INSURANCE CODE
REINSURANCE CREDIT

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
Guaynabo, Puerto Rico

**AMENDMENT TO RULE NUMBER 98 OF THE REGULATIONS OF THE PUERTO
RICO INSURANCE CODE**

REINSURANCE CREDIT

TABLE OF CONTENTS

	PAGE
SECTION 1 - AUTHORITY	1
SECTION 2 - PURPOSE AND SCOPE	1
SECTION 3 - STATEMENT OF NEED AND PURPOSE	2
SECTION 4 - AMENDMENT TO SECTION 5 OF RULE NO. 98, REINSURANCE CREDIT FOR DOMESTIC CEDING INSURERS IN STATUTORY FINANCIAL STATEMENTS	2
SECTION 5 - AMENDMENT TO SECTION 7 OF RULE NO. 98, TRUST AGREEMENTS UNDER PARAGRAPH F OF SECTION 5	22
SECTION 6 - AMENDMENT TO SECTION 8 OF RULE NO. 98, LETTERS OF CREDIT FILED ACCORDING TO SUBSECTION F OF SECTION 5	22
SECTION 7 - AMENDMENT TO SECTION 10 OF RULE NO. 98 TITLED: REQUIREMENTS FOR REINSURANCE CONTRACTS	22
SECTION 8 - AMENDMENT TO SECTION 13 OF RULE NO. 98, SUSPENSION OR REVOCATION OF THE ACCREDITATION OF ASSUMING INSURERS	23
SECTION 9 - SEVERABILITY	23
SECTION 10 - EFFECT	24
APPENDIX B - FORM CR-1 CERTIFICATION OF THE CERTIFIED ASSUMING INSURER.....	25
APPENDIX C - FORM CR-F.....	
APPENDIX D - FORM CR-S.....	

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
Guaynabo, Puerto Rico

**AMENDMENT TO RULE NUMBER 98 OF THE REGULATIONS OF THE PUERTO
RICO INSURANCE CODE, TITLED**

“REINSURANCE CREDIT”

SECTION 1. - AUTHORITY

The Commissioner of Insurance of Puerto Rico adopts this amendment to Rule Number 98 of the Regulations of the Puerto Rico Insurance Code, Regulation No. 8850 of the Department of State of Puerto Rico, titled “Reinsurance Credit,” under the authority vested by Sections 2.030 and 46.130 of Act No. 77, enacted on June 19, 1957, as amended, the Puerto Rico Insurance Code, as well as Act No. 38, enacted on June 30, 2017, as amended, the “Uniform Administrative Procedure Act of the Government of Puerto Rico.”

SECTION 2. - PURPOSE AND SCOPE

Sections 5, 7, 8, 10, and 13 of Rule No. 98 are hereby amended for the purpose of updating the regulations on reinsurance contracts executed by domestic ceding insurers, including the applicable criteria and parameters for allowing reinsurance credit as an asset or reduction of liabilities, as provided in Chapter 46 of the Puerto Rico Insurance Code, as amended in Act No. 150, enacted on July 22, 2018, and the regulatory standards

promulgated by the National Association of Insurance Commissioners (NAIC) model law, the “Credit for Reinsurance Model Law” and its model regulation, the “Credit for Reinsurance Model Regulation,” all of which is in compliance with federal law, the “Nonadmitted and Reinsurance Reform Act of 2010” (NRRRA).

SECTION 3. - STATEMENT OF NEED AND PURPOSE

Act No. 150-2018 included certain amendments to Chapter 46 of the Puerto Rico Insurance Code, for the purpose of establishing the legal authority to allow a credit for domestic insurers for risk that is ceded to certified international reinsurers in a qualified jurisdiction, according to the federal NRRRA and the most recent model law, “Credit for Reinsurance Model Law” of the NAIC.

This amendment to Rule Number 98 updates the rules that regulate contracting reinsurance to include the criteria that will be used to allow credit for risk ceded in reinsurance to certified international reinsurers in a qualified jurisdiction, for the purpose of incorporating the new uniform regulatory standards, which is part of the requirements of the NAIC accreditation program, and according to the amendment to Chapter 46 of the Puerto Rico Insurance Code.

The provisions of this amendment to Rule Number 98 are necessary for updating the regulation of the reinsurance business and are in accord with the model regulation “Credit for Reinsurance Model Regulation” of the NAIC.

SECTION 4. - AMENDMENT TO SECTION 5 OF RULE 98

Section 5 of Rule 98 is amended to read as follows:

"SECTION 5.- REINSURANCE CREDIT FOR DOMESTIC CEDING INSURERS IN STATUTORY FINANCIAL STATEMENTS

As provided in Chapter 46 of the Puerto Rico Insurance Code, a reinsurance credit will be allowed to a ceding insurer, as an asset or as a reduction of liabilities, for risks ceded in reinsurance, if the ceding meets the requirements established in paragraphs A, B, C, D, E, F, or G of this Section. The reinsurance credit will be allowed as provided in paragraphs A, B, or C, only with regard to the kinds or classes of insurance for which the assuming insurer is authorized to write or assume risk under reinsurance in its state of domicile, or

in the case of a branch of a foreign assuming insurer located in the United States, in the state through which it entered the United States and was authorized to transact insurance or reinsurance business. The credit will be allowed under paragraphs C or D only if the requirements set forth in Section 7 of this Rule have been met.

Ceding of risk in reinsurance by the ceding insurer shall meet the requirements set forth in any of the following paragraphs:

A. ...

...

D. ...

(7) The specific security given to a ceding insurer by an assuming insurer, with regard to the reinsurance credit that that may be recognized under paragraph G of this Rule will be applicable, until such is exhausted, to the payment of obligations of the assuming insurer to the ceding insurer that holds the specific security, as a condition precedent for bringing a claim for payment by the ceding insurer to the trustee of a trust established by an assuming insurer under this Paragraph.

E. Assuming Insurers Certified by the Commissioner

(1) The credit will be allowed when the reinsurance is ceded to an assuming insurer that is duly certified by the Commissioner as a reinsurer in Puerto Rico for all periods of time in which the reinsurance credit is claimed in the statutory financial statements. The reinsurance credit will be allowed based on the kind of security maintained by or on behalf of the ceding insurer, according to the rating assigned by the Commissioner to the certified assuming insurer. This security shall be provided pursuant to Section 46.111(5) of the Insurance Code and Sections 5(G), 7, 8 and 9 of this Rule. The amount of the security required for allowing the full credit shall meet the following parameters:

- | (a) Rating | Required security |
|----------------------|-------------------|
| Level 1 | 0% |
| Level 2 | 10% |
| Level 3 | 20% |
| Level 4 | 50% |
| Level 5 | 75% |
| Vulnerable Level - 6 | 100% |
- (b) Affiliated reinsurance transactions will have the same opportunity with regard to the reduced security requirements as all other reinsurance transactions.
- (c) Upon entering an order for rehabilitation or liquidation against the ceding insurer, the Commissioner will require any certified assuming insurer to provide 100% security for the benefit of the ceding insurer or of its assets.
- (d) To facilitate the prompt payment of claims, certified assuming insurers will not be required to provide security for catastrophe reinsurance recoverables for a period of one year to be counted from the date on which the ceding insurer recognizes for the first time a liability reserve as a result of a loss due to a catastrophe event recognized by the Commissioner. The deferment period of one year shall be contingent on the certified assuming insurer paying claims in a prompt manner and will only apply to reinsurance recoverables in the following lines of risk as reported in the NAIC annual financial report specifically related to the catastrophe event:

- (i) Line 1: Fire
 - (ii) Line 2: Allied Lines
 - (iii) Line 3: Farmowners Multiple Peril
 - (iv) Line 4: Homeowners Multiple Peril
 - (v) Line 5: Commercial Multiple Peril
 - (vi) Line 9: Marine
 - (vii) Line 12: Earthquake
 - (viii) Line 21: Physical Damage to Vehicles
- (e) The reinsurance credit established under this Paragraph will only be applicable to reinsurance contracts that are written or renewed after the effective date of the certification of the assuming insurer. Any reinsurance contract written before the effective date of the certification of the assuming insurer and that subsequent to the certification is amended, or a new reinsurance contract that covers any risk for which security had previously been posted, will be only subject to the provisions of this Paragraph with regard to losses incurred and reserves reported after the effective date of the amendment or of the new contract.
- (f) No provision of this Paragraph will prohibit the contracting parties to a reinsurance contract from agreeing to requirements for greater security than the minimum requirements provided for in this Rule for certified assuming insurers.

(2) Certification Process.

- (a) The Commissioner will publish on the official website of the Office a notice of all certification applications that have been filed, including the instructions to be followed so that the general public may submit comments on the application for certification. The Commissioner will not issue a final decision on the application for certification until thirty (30) days have elapsed from the date of publication of the aforementioned notice.
- (b) The Commissioner will notify the assuming insurer in writing regarding the final decision on the application for certification. If the certification is approved, the notification will include the rating assigned to the certified assuming insurer. A list of all of the certified assuming insurers and their respective ratings will be published on the official website of the Office.
- (c) To be eligible for certification, the assuming insurer shall meet the following requirements:
 - (i) Be domiciled and authorized to transact insurance or reinsurance business in a qualified jurisdiction as set forth in subparagraph (3) of this Paragraph.
 - (ii) Maintain capital and surplus or the equivalent in an amount of no less than \$250,000,000, calculated according to the criteria established in subparagraph (e)(viii) of this section.
 - (iii) Maintain a stable financial solidity rating from two or more rating agencies that are acceptable to the Commissioner. The rating shall be based on continuous communication between the rating agency and

the assuming insurer, and not be based only on publicly available information. A stable financial rating will be one of the criteria that the Commissioner will consider in determining the rating it will assign to the assuming insurer. The following are considered acceptable rating agencies:

1. Standard & Poor's;
2. Moody's Investors Service;
3. Fitch Ratings;
4. A.M. Best Company; or
5. Any other nationally recognized rating agency that the Commissioner may accept according to this Rule.

- (iv) File Form CR-1 (Certification of the Certified Assuming Insurer) with the Commissioner, which is included herewith and made a part of this Rule, as evidence that the insurer is submitting to the jurisdiction of Puerto Rico, designating the Commissioner as its lawful attorney to receive service in the event of any legal action that may be brought by a ceding insurer in this jurisdiction with regard to the reinsurance contract, and that it will provide a one hundred percent (100%) security of the obligations assumed as reinsurance ceded by ceding insurers in Puerto Rico, in the event of a failure to comply with a final unappealable judgment entered by any court of competent

jurisdiction in Puerto Rico or the United States or an arbitration award.

- (v) Comply with the requests for information made by the Commissioner in the initial certification application process and subsequently.
 - (vi) Meet any other requirement that the Commissioner may consider relevant.
- (d) In order to be eligible for certification, associations, including incorporated underwriters and individual unincorporated underwriters, in addition to meeting with the requirements established in the above subparagraph (c), shall meet the following requirements:
- (i) Maintain capital and surplus or the equivalent in an amount of no less than \$250,000,000 and a central common fund with a balance of no less than \$250,000,000.
 - (ii) Incorporated members will not be engaged in any business other than writing insurance as members of the association and will be subject to the same level of regulation and control of solvency established for unincorporated members by the association's domiciliary regulator.
 - (iii) Within ninety (90) days of the deadline for filing the financial statements with the domiciliary regulator, file with the Commissioner a certification issued by such regulator with regard to the solvency of each of its members or if such certification is not

available, the financial statements of each one of its members, prepared by independent certified public accountants.

- (e) Every certified assuming insurer will be classified on the basis of the legal entity, taking into consideration the rating of the group as appropriate, except that associations, including incorporated underwriters and individual unincorporated underwriters, that have been authorized to transact business as certified assuming insurers may be evaluated based on the rating of the group. The following factors will be considered as part of the evaluation process, which will not be deemed to be a limitation,:
 - (i) The rating assigned to the certified assuming insurer by an acceptable rating agency. The highest rating that may be assigned to a certified assuming insurer shall be according to the rating set forth in the following table. The Commissioner will use the lowest rating assigned by a rating agency that is considered acceptable to establish the maximum level of rating for a certified assuming insurer. Failure to obtain a stable level from at least two rating agencies that are considered acceptable will imply ineligibility for certification;

<u>Rating</u>	<u>AM Best</u>	<u>S&P</u>	<u>Moody's</u>	<u>Fitch</u>
Level 1	A++	AAA	Aaa	AAA
Level 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Level 3	A	A+, A	A1, A2	A+, A
Level 4	A-	A-	A3	A-
Level 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable Level 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

- (ii) The business practices of the certified assuming insurer with regard to the ceding insurer, including the record or history of performance of the contractual terms and reinsurance obligations;
- (iii) For certified assuming insurers that are domiciled in the United States, a review of the most recent NAIC annual statement, including Schedule F (for property/casualty reinsurers) and Schedule S (for life and health reinsurers);
- (iv) For certified assuming insurers that are not domiciled in the United States, an annual review of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers), which are attached and made a part of this Rule;

- (v) The reputation of the certified assuming insurer in the prompt payment of claims under reinsurance contracts, based on an analysis of the overdue reinsurance recoverables reported on Schedule F of the ceding insurer, including the portion of obligations over ninety (90) days past due or that are disputed, with special attention to the obligations that are payable to companies that are under administrative supervision or receivership;
- (vi) Regulatory actions taken against the certified assuming insurer;
- (vii) A report by an independent certified public accountant on the financial statements of the insurer, as described in the following subparagraph (viii);
- (viii) For certified assuming insurers that are not domiciled in the United States, audited financial statements (audited according to U.S. GAAP guidelines, if available; audited statements based on IFRS standards will be allowed if they include audited notes reconciling assets and net income according to U.S. GAAP standards; if authorized by the Commissioner, audited statements based on IFRS standards with a reconciliation according to U.S. GAAP certified by a company officer will be allowed), the documents required by law, and the opinion of an actuary (as filed with the regulator in the jurisdiction outside of the United States). Along with the initial application for certification, the Commissioner will take into consideration the audited financial

statements for the past three (3) years submitted to the regulator in the jurisdiction outside of the United States;

- (ix) As part of an insolvency process, the liquidation priority of the obligations of the ceding insurer within the certified assuming insurer's domiciliary jurisdiction;
 - (x) A certified assuming reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Commissioner shall receive prior notice from a certified assuming reinsurer that proposes participation by the certified assuming reinsurer in a solvent scheme of agreement; and
 - (xi) Any other information deemed relevant by the Commissioner.
- (f) Based on the analysis set forth in the above subparagraph (e)(v) on the reputation of the certified assuming insurer regarding the prompt payment of claims under reinsurance contracts, the Commissioner may make the necessary adjustments in the security that is required of certified assuming insurers to protect its liabilities to ceding insurers in Puerto Rico, provided that the required security be increased by a minimum of one (1) rating level as set forth in the above subparagraph (e)(i) and the Commissioner finds that:
- (i) More than fifteen percent (15%) of the clients that have ceded insurance to the certified assuming insurer have reinsurance recoverables for losses paid that are overdue ninety (90) days or more,

which are not in dispute, and are in excess of \$100,000 for each ceding insurer; or

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

(g) The certified assuming insurer must agree to provide the Commissioner with any information that may be requested with regard to the initial determination of certification and any other relevant information that may subsequently be required. All information submitted by the certified assuming insurer that does not consist of public information or documents subject to disclosure will be exempted from public discovery or disclosure.

The following are the applicable requirements for submitting information :

(i) Notification within ten (10) days of any regulatory actions taken against the certified assuming reinsurer, any change in the provisions of its domiciliary license or any change in rating by a rating agency that is approved by the Commissioner, including a description of such changes and the reasons therefore;

(ii) Annually file Form CR-F or CR-S, as applicable, joined to and made a part of this Rule;

(iii) Annually file a report by an independent certified public accountant on the financial statements of the insurer, as described in the following subparagraph (iv);

- (iv) Annually file financial audited statements (audited according to U.S. GAAP guidelines, if available; audited statements based on IFRS standards will be allowed if they include audited notes reconciling assets and net income according to U.S. GAAP standards; if authorized by the Commissioner, audited statements based on IFRS standards with a reconciliation according to U.S. GAAP certified by a company officer will be allowed), the documents required by law and the opinion of an actuary (as filed with the certified assuming insurer's regulator). Upon the initial certification, audited financial statements for the past three (3) years filed with the certified assuming insurer's regulator;
 - (v) Annually file an updated list of all disputes and overdue reinsurance claims regarding reinsurance assumed from United States ceding insurers;
 - (vi) File a certification by the certified assuming insurer's regulator that the certified assuming insurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level;
and
 - (vii) Submit any other information that the Commissioner may reasonably consider relevant.
- (h) Change in rating or revocation of the certification.

- (i) In the case of a downgrade in the rating assigned by the rating agency or any other disqualifying circumstance, the Commissioner, further to written notification, shall assign a new rating to the certified assuming insurer, according to the criteria set forth in the above subparagraph (d)(i).
- (ii) The Commissioner shall have the authority to suspend, revoke, or modify the certification of a certified assuming insurer at any time that the certified assuming insurer fails to meet its obligations or security requirements, or if the certified assuming insurer's operations or finances or significant delays in payment by the certified assuming insurer lead the Commissioner to reconsider the certified assuming insurer's ability and willingness to adequately meet the assumed contractual obligations.
- (iii) If the rating of a certified assuming insurer is upgraded by the Commissioner, the certified insurer may prospectively meet the security requirements for the newly assigned rating, but the Commissioner shall require the certified assuming insurer to post security based on the previously applicable security requirements for all contracts that are in effect on or before the effective date of the rating upgrade. If a certified assuming insurer's rating is downgraded by the Commissioner, the Commissioner shall require that the certified assuming insurer meet the security requirements

that are applicable to the new rating for all business assumed as a certified assuming insurer.

- (iv) Upon the revocation of the certification of a certified assuming insurer by the Commissioner, the assuming insurer shall post the security set forth in Paragraph G of this Section so that the ceding insurer may continue to take the reinsurance credit for business ceded to the assuming insurer. If the funds are held in trust as provided in Paragraph D of this Section, the Commissioner may allow an additional reinsurance credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of the trust administration. Notwithstanding the change of a certified assuming insurer's rating or the revocation of its certification, a domestic insurer that has ceded reinsurance to such certified assuming insurer will not be denied the reinsurance credit for a period of three (3) months regarding all reinsurance that was ceded to such certified assuming insurer, unless the Commissioner determines that the reinsurance has a high risk of not being recoverable.
- (i) Certified assuming insurers that cease to assume new business in Puerto Rico may request retaining certification in inactive status in order to continue to qualify for the reduction in the security requirement for business that has already been assumed. Inactive assuming insurers will

continue to meet all applicable requirements and the Commissioner will assign a rating that takes into account, if relevant, the reasons for which the assuming insurer is not assuming new business.

(3) Qualified jurisdiction.

- (a) If upon evaluating of the supervisory system for reinsurance in an assuming insurer's place of domicile outside of the jurisdiction of United States, the Commissioner finds that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Commissioner shall publish notice and the evidence of such recognition on the Office website or in any other appropriate means of publication. The Commissioner may establish a procedure to withdraw recognition as a qualified jurisdiction from non-United States jurisdictions that fail to meet the requirements of this Rule.
- (b) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible for recognition as a qualified jurisdiction, the Commissioner shall evaluate, initially and on an ongoing basis, the reinsurance supervisory system of the jurisdiction, and will take into consideration the rights, benefits, and reciprocal agreements available in such jurisdiction and recognized for reinsurers that are authorized and domiciled in the United States. The Commissioner shall establish the appropriate mechanisms for evaluating the qualifications of the non-United States jurisdiction and shall create and publish a list of the approved qualified jurisdictions under which assuming insurers that are authorized

and domiciled in any of such jurisdictions may be eligible for certification. A qualified jurisdiction must share information and cooperate with the Commissioner with respect to all certified assuming insurers domiciled in such jurisdiction. The Commissioner will not recognize a jurisdiction as a qualified jurisdiction if it is found that the jurisdiction does not enforce in an appropriate and timely manner any final judgment or arbitration award from the United States. At the discretion of the Commissioner, the following factors, without limitation, may be considered in the decision to recognize a jurisdiction as a qualified jurisdiction:

- (i) The regulatory framework of the assuming insurer.
- (ii) The structure and authority of the domiciliary regulator with regard to solvency and financial oversight requirements.
- (iii) The financial requirements and operational standards for assuming insurers in the jurisdiction.
- (iv) Requirements for filing or public availability of the financial reports of the assuming insurers and the accounting principles used in the jurisdiction.
- (v) The willingness of the regulator to cooperate with United States relators in general and particularly with the Commissioner.
- (vi) The history of performance by the assuming insurer in the domiciliary jurisdiction.

- (vii) Any evidence regarding substantial difficulties with the enforcement of a final judgment from the United States in the jurisdiction.
 - (viii) Any relevant international standards or guidelines with respect to mutual recognition of reinsurance supervision adopted by the “International Association of Insurance Supervisors” or the successor organization.
 - (ix) Any other requirement that the Commissioner may reasonably deem relevant.
- (c) The Commissioner shall consider the list of qualified jurisdictions published by the NAIC to determine the recognition of a qualified jurisdiction. If the Commissioner approves as qualified a jurisdiction that does not appear on the NAIC list, the Commissioner shall provide duly documented justification that the jurisdiction meets the requirements set forth in subparagraphs (3)(b)(i)-(ix) of this Paragraph.
- (d) United States jurisdictions that meet the NAIC accreditation requirements with regard to financial statements and the accreditation program shall be recognized as qualified jurisdictions.
- (e) If a certified assuming insurer’s domiciliary jurisdiction ceases to be recognized as a qualified jurisdiction, the Commissioner shall have the discretion to suspend the certified assuming insurer’s certification indefinitely, instead of revoking it.
- (4) Recognition of certification issued by a NAIC accredited jurisdiction.

- (a) If an applicant for certification has been certified as an assuming insurer in a NAIC accredited jurisdiction, the Commissioner may, at his or her discretion, defer to that jurisdiction's certification, as well as to the financial rating assigned in that jurisdiction, so that the insurer may be considered a certified assuming insurer in Puerto Rico, provided that the assuming insurer files a properly executed Form CR-1 in a timely manner and provides any other information that may be requested by the Commissioner.
- (b) Any change in the status or rating of the certified assuming insurer in the other jurisdiction, will automatically apply in Puerto Rico from the effective date in the other jurisdiction. The certified assuming insurer shall notify the Commissioner of any change in status or rating, within ten (10) days from the receipt of the notification of the change.
- (c) The Commissioner may at any time withdraw recognition of the rating assigned by another jurisdiction and assign a new rating according to the requirements set forth in subparagraph 2(h) of this Paragraph.
- (d) The Commissioner may at any time withdraw recognition of another jurisdiction's certification through written notice to the certified assuming insurer. Unless the Commissioner suspends or revokes the certification of a certified assuming insurer as provided in subparagraph (2)(h) of this Paragraph, the certified assuming insurer's certification will remain in good standing in Puerto Rico for a period of three (3) months, which may be

extended for an additional period, if necessary to consider the assuming insurer's application for certification in Puerto Rico.

(5) Mandatory funding clause.

In addition to the clauses required under Section 10 of this Rule, reinsurance contracts entered into or renewed shall include a clause on proper funding, in which the certified assuming insurer is required to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer for reinsurance ceded to the certified assuming insurer .

(6) The Commissioner shall adopt the notification and information filing requirements as may be established by the NAIC with respect to certified assuming insurers and qualified jurisdictions.

F. Reinsurance Credit Required by Law

The credit will be allowed for reinsurance ceded to an assuming insurer that does not meet the requirements established in the aforementioned Paragraphs A, B, C, D, or E, only when the risks are located in a jurisdiction of the United States or in any legitimate government where reinsurance is required by law or regulations of such jurisdiction.

G. Other Credit for Reinsurance Ceded to Assuming Insurers that do not Meet the Requirements Established in Paragraphs A to F

(1) When the assuming insurer does not meet the requirements set forth in the Paragraphs A to F of this Section, the Commissioner will allow a reduction of the liability for the reinsurance ceded by an amount not to exceed the liabilities of the ceding insurer.

(2) ...

...”

SECTION 5. - AMENDMENT TO SECTION 7 OF RULE 98

The title of Section 7 of the Rule 98 is amended to read as follows:

“SECTION 7.- TRUST CONTRACTS CONSTITUTED ACCORDING TO PARAGRAPH G OF SECTION 5

A. ...

...”

SECTION 6. - AMENDMENT TO SECTION 8 OF RULE 98

The title of Section 8 of Rule 98 is amended to read as follows:

“SECTION 8. - LETTERS OF CREDIT PRESENTED ACCORDING TO PARAGRAPH G OF SECTION 5

A. ...

...”

SECTION 7. - AMENDMENT TO SECTION 10 OF RULE 98

Section 10 of Rule 98 is amended to read as follows:

“SECTION 10. - REQUIREMENTS OF THE REINSURANCE CONTRACT

No credit will be allowed for reinsurance effected with assuming insurers that meet the requirements of Paragraphs A, B, C, D, E, and G of Section 5 of this Rule nor will accounting as an asset or a reduction of the liabilities of the ceding insurer be allowed, unless the reinsurance contract:

A. ...

...”

SECTION 8. - AMENDMENT TO SECTION 13 OF RULE 98

Section 13 of Rule 98 is amended to read as follows:

“SECTION 13. - SUSPENSION OR REVOCATION OF THE ACCREDITATION OF AN ASSUMING INSURER

If an accredited assuming insurer should fail to meet the accreditation requirements set forth in this Rule, the Commissioner may suspend or revoke its accreditation according to the following requirements:

(1) ...

...

(2) During the time the accreditation of an assuming insurer is suspended, no reinsurance credit will be allowed for reinsurance contracts that are issued or renewed from the effective date of the suspension, except as provided in Paragraph G of Section 5. If the accreditation has been revoked, no reinsurance credit will be allowed from the effective date of the revocation, except in such cases as provided in Paragraph G of Section 5.”

SECTION 9. - SEVERABILITY

If any word, sentence, paragraph, subsection, section or part of this Rule is held to be null or invalid by a Court of competent jurisdiction, the judgment or order will not affect the remaining provisions of this Rule, and its effect will be limited to such word, sentence, paragraph, subsection, section or part held to be invalid.

SECTION 10.- EFFECT

This amendment will enter into effect thirty (30) days after filing with the Department of State of Puerto Rico, according to the provisions of Act No. 38, supra.

JAVIER RIVERA-RÍOS
COMMISSIONER OF INSURANCE

Date of approval:

Date of Filing
at the Department of State:

Date of Filing
At the Legislative Library:

Government of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE OF PUERTO RICO
Guaynabo, Puerto Rico

APPENDIX B

FORM CR-1

CERTIFICATION OF THE CERTIFIED ASSUMING INSURER

I, _____, _____
(Name of the officer) (Position of the officer)

of _____, the assuming insurer under a
(Name of the assuming insurer)

reinsurance contract executed with one or more domestic ceding insurers of Puerto Rico,

establish that _____, (hereinafter the "Assuming
(Name of the assuming insurer)

insurer"), by assuming the risks in reinsurance of such contract accepts that it:

- (1) Files this Form as evidence that it voluntarily submits to the jurisdiction of the Commissioner of Insurance of Puerto Rico and the jurisdiction of the courts of Puerto Rico that have jurisdiction to adjudicate any controversy that may arise with regard to the reinsurance contract, and that it will abide by any order, ruling, or final judgment entered by this court or any court of appeals, in the event of any appeal. Nothing in this paragraph may be understood to constitute a waiver of the right to commence an action in any court of competent jurisdiction in United States, remove the cause of action to the United States District Court for the District of Puerto Rico or of any other state of the United States. This is not intended to conflict with the obligation assumed by the parties to the reinsurance contract to submit to the jurisdiction of any arbitration process nor override such obligation, if the obligation arises from the contract.
- (2) Designates the Commissioner of Insurance of Puerto Rico as its lawful attorney to receive service in the event of legal action brought by a domestic ceding insurer in arising from the reinsurance contract.
- (3) Agrees to post security in an amount equal to one hundred percent (100%) of the reinsurance obligations assumed from ceding insurers of Puerto Rico, in the event of failure to comply with an order to enforce a final judgment of any court of competent jurisdiction in Puerto Rico or the United States or an arbitration award.
- (4) Agrees to notify Commissioner of Insurance of Puerto Rico, within ten (10) days of any regulatory action brought against the certified assuming insurer, any change in the terms of its authorization in its domiciliary jurisdiction, or any change in the rating assigned by

the rating agency accepted by the Commissioner, including the description of the change and the grounds or reasons for such change.

- (5) Agrees to file Form CR-F or CR-S annually, as applicable.
- (6) Agrees to annually file the report of an independent certified public accountant on the financial statements of the assuming insurer for its insurance business.
- (7) Agrees to annually file the audited financial statements, the documents required by law, and the opinion of an actuary, as provided in Section 5E(2)(g) of Rule 98 of the Regulations of the Puerto Rico Insurance Code.
- (8) Agrees to annually file an updated list of all disputes and overdue reinsurance related to reinsurance assumed from ceding insurers in Puerto Rico.
- (9) Agrees to annually file a certification by the regulator of the certified assuming insurer that the certified assuming insurer is in good standing and maintains capital in excess of the highest regulatory level established in its jurisdiction.
- (10) Files along with this Form, a list of the domestic ceding insurers in Puerto Rico with whom it has current reinsurance contracts and agrees that if there is any change, within thirty (30) days it will file an amended list with the Commissioner.

Date: _____
(day/month/year) (Name of the assuming insurer)

By: _____
(Name of the officer)

(Position of the officer)

CERTIFICATION:

The undersigned witnesses having completed this form on _____, 20____, on behalf name of _____ (Name of the assuming insurer) and that is the _____ (Position of the officer) of such assuming insurer; and is authorized to execute and file this form. The undersigned further certifies that he/she is familiar with the form and has read the content thereof and is in agreement with such.

(Name in print of the officer)

(Signature of the officer)