

Comments of the Independent Regulatory Review Commission



Insurance Department Regulation #11-249 (IRRC #2970)

Requirements for Qualified and Certified Reinsurers

October 31, 2012

We submit for your consideration the following comments on the proposed rulemaking published in the September 1, 2012 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Insurance Department (Department) to respond to all comments received from us or any other source.

1. Section 161.3b. Calculation of credit for reinsurance regarding obligations secured with certified reinsurers. – Clarity.

Paragraph (b)(4)

The proposed regulation states, in part:

To facilitate the prompt payment of claims, a certified reinsurer will not be required to post security for catastrophe recoverables for 1 year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Commissioner.

As proposed, the Commissioner would determine whether an occurrence is considered to be catastrophic. A commentator believes that the term “catastrophic occurrence” should be defined by an objective means. We agree that defining the term may provide the regulated community with a clear understanding of when this provision would take effect. However, we also note that the proposed regulation follows the National Association of Insurance Commissioners (NAIC) model law and regulation, neither of which defines the term. We ask the Department either to define the term or explain its rationale for not doing so.

2. Miscellaneous clarity.

In our review, we found several cross-references which do not parallel the corresponding cross-references in the NAIC model law and regulation.

- § 161.3a(c)(3) cross-references subsection (a)(3)(ii). The corresponding provision, Section 8D(3) in the model regulation, cross-references subparagraph B(7)(a) [of this Section 8], which would be equivalent to § 161.3a(a)(5)(i).

- § 161.3a(c)(4) cross-references § 161.6. The corresponding provision, Section 8D(4) in the model regulation, cross-references subparagraph B(7)(b) [of this Section 8], which would be equivalent to § 161.3a(a)(5)(ii).
- § 161.3b(e) cross-references § 161.3a(b)(1). The corresponding provision, Section 8B(5) in the model regulation, cross-references subparagraph (4)(a), which would be equivalent to § 161.3a(a)(3)(ii)(B)(I).

The Department should review the rulemaking in its entirety before submitting it in final-form to ensure that all references are cited as intended.