

# Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY  
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Insurance Department

(2) Agency Number:

Identification Number: 11-253

IRRC Number: 3115

(3) PA Code Cite:

31 Pa. Code, Chapter 161

(4) Short Title:

Requirements for Qualified and Certified Reinsurers

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact:

Bridget Burke, Regulatory Coordinator  
1341 Strawberry Square, Harrisburg, PA 17120, (717) 787-2567  
[briburke@pa.gov](mailto:briburke@pa.gov)

Secondary Contact:

Christine Diep, Program Analyst  
Office of Corporate and Financial Regulation  
1345 Strawberry Square, Harrisburg, PA 17120, (717) 787-8840  
[cdiep@pa.gov](mailto:cdiep@pa.gov)

(6) Type of Rulemaking (check applicable box):

☐ Proposed Regulation

☒ Final Regulation

☐ Final Omitted Regulation

☐ Emergency Certification Regulation;

☐ Certification by the Governor

☐ Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Chapter 161 was initially adopted in 1993 and sets forth requirements to be met for a licensed ceding insurer to receive credit for reinsurance in its financial statements. The purpose of this proposed rulemaking is to update Chapter 161 to delete the requirement that an alien (non-U.S.) reinsurer be listed on the National Association of Insurance Commissioners ("NAIC") "Quarterly Listing of Alien Insurers" (the successor list to the Non-Admitted Insurance Listing) in order to be considered for qualification

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pursuant to 40 P.S. § 442.1.

This is significant because an insurer licensed in Pennsylvania may only take credits on its financial statements if insurance is placed with a reinsurer that is certified or “qualified” (i.e., meets financial and other requirements imposed by statute and regulations) pursuant to 40 P.S. § 442.1.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) relating to the general rulemaking authority of the Department and Section 319.1 of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921 (40 P.S. § 442.1), relating to Credits for Reinsurance.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. However, this proposed regulation is based upon an NAIC model law and regulation. This regulation is not mandated by any federal or state law or court order or federal regulation. There are no relevant state or federal court decisions.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Neither the NAIC model law nor the NAIC model regulation contains the administrative requirement that an alien reinsurer be listed on the successor list to the Non-Admitted Insurance Listing. This requirement was originally included in the Pennsylvania regulation because, at the time of implementation, the Pennsylvania Insurance Department (“Department”) did not have the expertise to evaluate the financial condition of reinsurers. Instead, the Department sought to rely upon the NAIC’s evaluation of the entity’s financial condition. However, because the NAIC did not evaluate reinsurers at that time, the Department instead chose to rely upon the NAIC’s evaluation of entities in the surplus lines market. This resulted in a requirement in Pennsylvania that any reinsurer seeking to be “qualified” under Pennsylvania standards also be listed on the NAIC’s list of insurers operating in the surplus lines market, even though such requirement was unrelated to the requirements imposed upon reinsurers.

The proposed amendment to Chapter 161 would remove this administrative requirement and conform Pennsylvania’s regulation to the model law and regulation developed by the National Association of

Insurance Commissioners (NAIC) entitled "Credit for Reinsurance Model Law" (#785) "Credit for Reinsurance Model Regulation" (#786) respectively. Because the Department independently verifies that a reinsurer has adequate financial capacity to meet its reinsurance obligations, this additional requirement of placement on an unrelated NAIC list is unnecessary.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to this regulation.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Pennsylvania is the only state to impose such a requirement upon reinsurers. The amendment would promote consistency with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The amendment to the regulation will not affect any other regulations.

(14) Describe the communications with and solicitation of input from the public, any advisory

council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department circulated exposure drafts of the regulation to the Insurance Federation of Pennsylvania, the Pennsylvania Association of Mutual Insurance Companies. Neither of these entities posed any objections to the proposed amendment.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Although Chapter 161 applies to all insurance companies domesticated in the Commonwealth and the reinsurers with whom they do business, this proposed amendment would apply only to any alien insurer seeking to be deemed a "qualified" reinsurer by the Commissioner.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

This amendment does not impose compliance obligations upon any entities. It removes the administrative requirement that an alien insurer seeking to be deemed a qualified reinsurer by the Commissioner also seek placement on the NAIC's Quarterly Listing of Alien Insurers.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The amendment would not have a specific financial, economic or social impact on individuals, small

business and labor communities or other public and private organizations. The removal of the administrative requirement to obtain placement on the NAIC's Quarterly Listing of Alien Insurers will streamline the Department's process of evaluating alien insurers seeking qualification pursuant to 40 P.S. § 442.1.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

No cost or adverse effects are anticipated. The removal of the administrative requirement to obtain placement on the NAIC's Quarterly Listing of Alien Insurers will streamline the Department's process of evaluating alien insurers seeking qualification pursuant to 40 P.S. § 442.1.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs associated with compliance with this regulation. To the extent the regulated community previously incurred costs associated with obtaining placement on the NAIC Quarterly List of Alien Insurers, such costs would be eliminated.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This amendment would not impose any costs and/or savings upon local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

This amendment would not impose any costs and/or savings upon state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This amendment would not impose any additional legal, accounting or consulting procedures or additional record keeping or other paperwork upon the regulated community.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	<b>\$ None</b>	<b>\$ None</b>	<b>\$ None</b>	<b>\$ None</b>	<b>\$ None</b>	<b>\$ None</b>
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
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None	None	None	None	None

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

This amendment will have no adverse impact on any regulated entity. It merely removes the administrative requirement that an alien reinsurer obtain placement on the NAIC Quarterly Listing of Alien Insurers in order to obtain "qualification" status pursuant to 40 P.S. § 442.1. Furthermore, as this amendment will affect only non-U.S. entities, this amendment will have no adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012).

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been developed to meet the particular needs of affected groups or persons.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

As this amendment merely removes an administrative requirement, no alternative regulatory provisions have been considered.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As stated above, this amendment will have no adverse impact on any small business.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data was used as a basis for this regulation.

(29) Include a schedule for review of the regulation including:

A. The date by which the agency must receive public comments: 12/15/14

B. The date or dates on which public meetings or hearings



will be held:

N/A

C. The expected date of promulgation of the proposed regulation as a final-form regulation:

6/1/15

D. The expected effective date of the final-form regulation:

7/1/15

E. The date by which compliance with the final-form regulation will be required:

7/1/15

F. The date by which required permits, licenses or other approvals must be obtained:

N/A

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

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Copy below is hereby approved as to  
form and legality. Attorney General

By \_\_\_\_\_  
(Deputy Attorney General)

\_\_\_\_\_  
Date of Approval

→ Check if applicable.  
Copy not approved. Objections  
attached.

Copy below is hereby certified to be a true and correct  
copy of a document issued, prescribed or promulgated  
by:

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-253

DATE OF ADOPTION: \_\_\_\_\_

BY: \_\_\_\_\_

*Teresa M. Miller*  
Teresa M. Miller  
Insurance Commissioner

TITLE: \_\_\_\_\_  
(EXECUTIVE OFFICER, CHAIRMAN OR  
SECRETARY)

Copy below is hereby approved as to form and  
legality. Executive or Independent Agencies

*[Signature]*

NOV 17 2015

\_\_\_\_\_  
DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)  
(~~CHIEF COUNSEL, INDEPENDENT AGENCY~~)  
(STRIKE INAPPLICABLE TITLE)

→ Check if applicable. No Attorney General  
approval or objection within 30 days after  
submission.

NOTICE OF FINAL RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code Chapter 161

REQUIREMENTS FOR QUALIFIED AND CERTIFIED REINSURERS

**Insurance Department**

**Notice of Final Rulemaking**

31 Pa. Code, Chapter 161  
§ 161.3

**REQUIREMENTS FOR QUALIFIED AND CERTIFIED REINSURERS**

Document/Fiscal Note No. 11-253

**INSURANCE COMMISSIONER'S CERTIFICATION**

I, Teresa D. Miller, hereby certify that I have reviewed this Final Form Regulation and determined that it is consistent with the principles outlined in Executive Order 1996-1.

A handwritten signature in black ink, appearing to read "Teresa D. Miller", is written over a horizontal line.

Teresa D. Miller  
Insurance Commissioner

# **FINAL-FORM RULEMAKING**

## **INSURANCE DEPARTMENT**

### **31 PA. CODE Ch. 161**

#### **Requirements for Qualified and Certified Reinsurers**

[\_\_ Pa.B. \_\_]  
[Saturday, \_\_\_\_\_, 201\_ ]

#### **Preamble**

The Commonwealth of Pennsylvania Insurance Department (Department) amends Chapter 161 of the Department's regulations (31 Pa. Code Ch. 161) (relating to requirements for qualified and certified reinsurers) to read as set forth in Annex A. This final-form rulemaking is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P.S. §§ 66, 186, 411 and 412) relating to the general rulemaking authority of the Department and section 319.1 of the Act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921 (40 P.S. § 442.1), relating to credits for reinsurance.

#### ***Purpose***

The purpose of this final-form rulemaking is to update Chapter 161 to delete the requirement that a reinsurer be listed on the successor list to the Non-Admitted Insurance Listing (now known as the "Quarterly Listing of Alien Insurers") published by the National Association of Insurance Commissioners (NAIC) in order to be considered for qualification pursuant to 40 P.S. § 442.1. The amendment to Chapter 161 would remove this administrative requirement and conform Pennsylvania's regulation to the model law and regulation developed by the NAIC entitled "Credit for Reinsurance Model Law" (#785) "Credit for Reinsurance Model Regulation" (#786) respectively.

#### ***Comments and Responses***

Notice of the proposed rulemaking was published at 45 Pa. B. 4763 (August 15, 2015) with a thirty-day comment period. Comments were received from the Insurance Federation of Pennsylvania and Lloyds America, Inc. expressing support for the amendments. Additionally, a comment was received from the Pennsylvania Association of Mutual Insurance Companies indicating no objection to the amendments.

The Independent Regulatory Review Commission did not have objections, comments, or recommendations regarding the regulation.

### ***Affected Parties***

Although Chapter 161 applies to all insurance companies domesticated in the Commonwealth and the reinsurers with whom they do business, this proposed amendment would apply only to any alien insurer seeking to be deemed a “qualified” reinsurer by the Commissioner.

### ***Fiscal Impact***

#### ***State Government***

There will be no material increase in cost to the Department as a result of this final-form rulemaking.

#### ***General Public***

While the chapter has no immediate fiscal impact on the general public, the general public will benefit to the extent that removing an unnecessary administrative requirement for reinsurers that are financially solvent and licensed in well-regulated jurisdiction will reduce the cost of reinsurance to ceding insurers in the Commonwealth and reduce trade barriers allowing for more competition in the reinsurance marketplace.

#### ***Political Subdivisions***

The final-form rulemaking will not impose additional costs on political subdivisions.

#### ***Private Sector***

The amended requirements in Chapter 161 will impose no significant costs on the transaction of business in this Commonwealth.

### ***Paperwork***

The final-form rulemaking will not impose additional paperwork on the Department.

### ***Effectiveness/Sunset Date***

The final-form rulemaking will become effective thirty (30) days after published in the Pennsylvania Bulletin. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

### ***Contact Person***

Questions or comments concerning this proposed rulemaking may be addressed in writing to Bridget E. Burke, Regulatory Coordinator, 1341 Strawberry Square, Harrisburg, PA 17120. Questions and comments may also be e-mailed to [briburke@pa.gov](mailto:briburke@pa.gov) or faxed to (717) 772-1969.

### ***Regulatory Review***

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 5, 2015, the Department submitted a copy of the notice of proposed rulemaking published at 45 Pa. B. 4763 to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee for review and comment.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), IRRC and the Chairpersons of the Senate and House Committees were provided with copies of the comments received during the public comment period. In preparing the final-form rulemaking, the Department considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on \_\_\_\_\_, 20\_\_ the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)) of the Regulatory Review Act, IRRC met on \_\_\_\_\_ and approved the final-form rulemaking.

### ***Findings***

The Commissioner finds that:

- (1) Public notice of intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

### ***Order***

The Commissioner, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 31 Pa. Code Chapter 161, are amended by deleting subparagraph (3)(iv) of section 161.3 and renumbering the remainder of the paragraph accordingly as set forth in 45 Pa. B. 4763.
- (b) The Department shall submit this order, 45 Pa. B. 4763, and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) The final-form regulation adopted by this order shall take effect 30 days following publication in the Pennsylvania Bulletin.

*Teresa D. Miller*  
*Insurance Commissioner*

# PROPOSED RULEMAKING

## INSURANCE DEPARTMENT

[ 31 PA. CODE CH. 161 ]

### Requirements for Qualified and Certified Reinsurers

[45 Pa.B. 4763]

[Saturday, August 15, 2015]

The Insurance Department (Department) proposes to amend Chapter 161 (relating to requirements for qualified and certified reinsurers) to read as set forth in Annex A. The rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), regarding the general rulemaking authority of the Department, and section 319.1 of The Insurance Company Law of 1921 (act) (40 P. S. § 442.1), regarding credits for reinsurance.

#### *Purpose*

Chapter 161 was initially adopted in 1993 and sets forth requirements to be met for a licensed ceding insurer to receive credit for reinsurance in its financial statements. Unless an unlicensed reinsurer is qualified or certified to accept reinsurance from insurers, credit is not allowed as an admitted asset or as a reduction of liability relative to risks ceded by these licensed insurers. Qualified or certified reinsurers are those meeting the conditions for reinsurers specified by the Insurance Commissioner. The purpose of this proposed rulemaking is to update Chapter 161 to delete the requirement that a reinsurer must be listed on the successor list to the Non-Admitted Insurance Listing (now known as the Quarterly Listing of Alien Insurers) published by the National Association of Insurance Commissioners (NAIC) to be considered for qualification under section 319.1 of the act.

Neither the NAIC model law nor the NAIC model regulation contains this administrative requirement. The administrative requirement was originally included in the Pennsylvania regulation because at the time of implementation the Department did not have the expertise to evaluate the financial condition of reinsurers. Instead, the Department sought to rely upon the NAIC's evaluation of the entity's financial condition. However, because the NAIC did not evaluate reinsurers at that time, the Department instead chose to rely upon the NAIC's evaluation of entities in the surplus lines market. This resulted in a requirement in this Commonwealth that a reinsurer seeking to be "qualified" under Pennsylvania standards also be listed on the NAIC's list of insurers operating in the surplus lines market.



The proposed amendment to Chapter 161 would remove this administrative requirement and conform Pennsylvania's regulation to the model regulation and law developed by the NAIC entitled "Credit for Reinsurance Model Law" (#785) and "Credit for Reinsurance Model Regulation" (#786), respectively.

A copy of the copyrighted NAIC model regulation was provided to the Senate Banking and Insurance Committee, the House Insurance Committee, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

#### *Explanation of Proposed Rulemaking*

Section 161.3 (relating to credit for reinsurance) is proposed to be amended to delete the requirement that a reinsurer be listed on the Non-Admitted Insurers Listing published by the Non-Admitted Insurers Information Office of the NAIC, or a successor list, to be considered for qualification under section 319.1 of act.

#### *External Comments*

The Department circulated pre-exposure drafts of this proposed rulemaking to the Insurance Federation of Pennsylvania and the Pennsylvania Association of Mutual Insurance Companies and did not receive objections.

#### *Affected Parties*

Although Chapter 161 applies to all insurance companies domesticated in this Commonwealth and the reinsurers with whom they do business, this proposed rulemaking will apply only to an alien insurer seeking to be deemed a "qualified" reinsurer by the Insurance Commissioner.

#### *Fiscal Impact*

#### *State government*

There will be no material increase in cost to the Department as a result of this proposed rulemaking.

#### *General public*

While Chapter 161 does not have immediate fiscal impact on the general public, the general public will benefit to the extent that removing an unnecessary administrative requirement for reinsurers that are financially solvent and licensed in well-regulated jurisdiction will reduce the cost of reinsurance to ceding insurers in this Commonwealth and reduce trade barriers allowing for more competition in the reinsurance marketplace.

#### *Political subdivisions*

The proposed rulemaking will not impose additional costs on political subdivisions.

#### *Private sector*

This proposed rulemaking will not impose significant costs on the transaction of business in this Commonwealth.

#### *Paperwork*

The proposed rulemaking would not impose additional paperwork on the Department.

#### *Effectiveness/Sunset Date*

The proposed rulemaking will become effective within 30 days after final-form publication in the *Pennsylvania Bulletin*. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, a sunset date has not been assigned.

#### *Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Jodi A. Frantz, Department Counsel, Insurance Department, 1341 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-2567, [jodfrantz@pa.gov](mailto:jodfrantz@pa.gov) within 30 days following the publication in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.12a), the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to the IRRC and the House and Senate Committees.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 5, 2015, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate and House Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

TERESA D. MILLER,  
Insurance Commissioner

**Fiscal Note:** 11-253. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 31. INSURANCE

#### PART VIII. MISCELLANEOUS PROVISIONS

#### CHAPTER 161. REQUIREMENTS FOR QUALIFIED AND CERTIFIED REINSURERS

##### § 161.3. Credit for reinsurance.

A licensed domestic ceding insurer will be allowed credit for reinsurance as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of this section or as otherwise provided in § 161.7 (relating to credit for joint underwriting or pooling arrangements).

\* \* \* \* \*

(3) Credit will be allowed when the reinsurance is ceded to an assuming alien insurer which has met the conditions specified in this paragraph and has been deemed to be a qualified reinsurer by the Commissioner. To be considered for qualification, an assuming alien insurer shall meet the following conditions. The insurer shall:

(i) File with the Commissioner evidence of its submission to the Commonwealth's jurisdiction.

(ii) Submit to the Commonwealth's authority to examine its books and records.

(iii) File with the application for qualification and annually thereafter substantially the same information as that required to be reported on the NAIC annual statement blank by licensed insurers.

**[(iv) Be listed on the Non-Admitted Insurers Listing published by the Non-Admitted Insurers Information Office of the NAIC, or a successor list.**

**[(v)] (iv)** File with the application for qualification and annually thereafter details on the soundness of its ceded reinsurance program, including the identity, domicile and premium volume for each retrocessionaire when the amount of reinsurance premium ceded is greater than or equal to \$50,000. If the insurer demonstrates to the Commissioner's satisfaction its inability to provide the requested detail with respect to individual retrocessionaires because of its method of operation, the Commissioner will consider the acceptability of alternative information pertaining to the soundness of the insurer's ceded reinsurance program.

**[(vi)] (v)** Agree to the requirements of this subparagraph in the reinsurance agreements. This subparagraph is not intended to conflict with or override the obligation of the parties to

a reinsurance agreement to arbitrate their disputes, if an obligation is created in the agreement.

(A) In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer shall at the request of the ceding insurer:

(I) Submit to the jurisdiction of a court of competent jurisdiction in a state of the United States.

(II) Comply with the requirements necessary to give the court jurisdiction.

(III) Abide by the final decision of the court or of an appellate court in the event of an appeal.

(B) The assuming insurer shall designate a person as its true and lawful agent upon whom may be served a lawful process in an action, suit or proceeding instituted by or on behalf of the ceding company.

[(vii)] (vi) Maintain a trust fund in a qualified United States financial institution, for the payment of valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest.

\* \* \* \* \*

[Pa.B. Doc. No. 15-1494. Filed for public inspection August 14, 2015, 9:00 a.m.]

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[webmaster@PaBulletin.com](mailto:webmaster@PaBulletin.com)

**From:** Samuel R. Marshall [<mailto:smarshall@ifpenn.org>]

**Sent:** Monday, September 14, 2015 12:25 PM

**To:** Frantz, Jodi (Insurance); [cbrandt@irrc.state.pa.us](mailto:cbrandt@irrc.state.pa.us)

**Cc:** Johnson, Stephen; Jonathan Greer; Pittman, Joe; Logue, Carlton; Michael Thomas; Garth Shipman; Nicole Wilbourn; Cohn, Alan J.; Green, Daniel A.; Doug Furness

**Subject:** Regulation 11-253 - Requirements for Qualified and Certified Reinsurers

Our best letters are our shortest:

- The Insurance Federation supports the Department's proposed regulation, amending Section 161.3 to delete the requirement that a reinsurer be listed on the Non-Admitted Insurers Listing.

Thank you,

Sam Marshall

**SABRINA A. MIESOWITZ**  
Associate General Counsel

**LLOYD'S**

September 10, 2015

**Via Email**

Jodi A. Frantz  
Department Counsel  
Pennsylvania Insurance Department  
1341 Strawberry Square  
Harrisburg, PA 17120

Re: Proposed Regulation #11-253 (IRRC #3115) - Requirements for Qualified and Certified Reinsurers

Dear Ms. Frantz:

This comment letter is submitted on behalf of Underwriters at Lloyd's, London ("Lloyd's") in response to the proposed amendment of Pennsylvania Administrative Code, Title 31, Chapter 161, regarding requirements for qualified and certified reinsurers published by the Pennsylvania Insurance Department in the Pennsylvania Bulletin on August 15, 2015. We appreciate the opportunity to provide these comments.

Lloyd's is one of the largest providers of reinsurance capacity in the world and has had a longstanding commitment to the US which is our largest market for reinsurance. In 2014, Lloyd's assumed approximately \$177.3 million in premium from Pennsylvania cedants.

Lloyd's fully supports the revisions to the requirements for qualified and certified reinsurers and believes that the revised language will allow for greater consistency. Uniform implementation of the NAIC Revised Model Credit for Reinsurance Regulation (the "NAIC Model") is vital and we support any changes that bring a state's regulation closer to the NAIC Model.

Lloyd's applauds the Pennsylvania Department's commitment to maintaining an effective and efficient insurance regulatory system. Pennsylvania is a major market for Lloyd's reinsurance and these reforms are both welcome and necessary.

Sincerely,



cc: Steve Johnson, Pennsylvania Insurance Department  
Corinne Brandt, Independent Regulatory Review Commission

**From:** Kathy Cooper [<mailto:kcooper@irrc.state.pa.us>]  
**Sent:** Thursday, August 20, 2015 10:01 AM  
**To:** Frantz, Jodi (Insurance); Diep, Christine  
**Cc:** Corinne Brandt  
**Subject:** FW: Insurance Department Proposed Regulation #11-253 (IRRC #3115) entitled "Requirements for Qualified and Certified Reinsurers"

Comment received by IRRC.

**From:** Ron Gallagher [<mailto:rgallagher@pamic.org>]  
**Sent:** Thursday, August 20, 2015 9:46 AM  
**To:** Corinne Brandt  
**Subject:** Re: Insurance Department Proposed Regulation #11-253 (IRRC #3115) entitled "Requirements for Qualified and Certified Reinsurers"

On behalf of the members of the Pennsylvania Association of Mutual Insurance Companies (PAMIC) I am submitting this email correspondence restating our position that PAMIC has no objection to the proposed regulation. If you have any further questions or comments, please direct them to my attention.

Respectfully,

***Ron Gallagher***  
President  
Pennsylvania Association of Mutual Insurance Companies  
W: 717-458-1029 C: 717-736-5949 E: [rgallagher@pamic.org](mailto:rgallagher@pamic.org)

November 30, 2015

Mr. David Sumner  
Executive Director  
Independent Regulatory Review Comm.  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

Re: Insurance Department Final-form Regulation No. 11-253, Requirements for Qualified and Certified Reinsurers

Dear Mr. Sumner:

Pursuant to Section 5a(c) of the Regulatory Review Act, enclosed for your information and review is final-form regulation 31 Pa. Code, Chapter 161, Requirements for Qualified and Certified Reinsurers.

The purpose of this rulemaking is to update Chapter 161 to delete the requirement that a reinsurer must be listed on the successor list to the Non-Admitted Insurance Listing (now known as the "Quarterly Listing of Alien Insurers") published by the National Association of Insurance Commissioners (NAIC) in order to be considered for qualification pursuant to 40 P.S. § 442.1.

If you have any questions regarding this matter, please contact me at (717) 783-2123.

Sincerely yours,



Bridget E. Burke  
Regulatory Coordinator



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 11-253

**SUBJECT:** REQUIREMENTS FOR QUALIFIED AND CERTIFIED REINSURERS

**AGENCY:** DEPARTMENT OF INSURANCE

**TYPE OF REGULATION**

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

2015 NOV 30 PM 2:46

RECEIVED  
IRRC

**FILING OF REGULATION**

DATE

SIGNATURE

DESIGNATION

*HOUSE COMMITTEE ON INSURANCE*

11-30 Lisa C Peck

MAJORITY CHAIR Tina Pickett

11-30 Linda Rogers

MINORITY CHAIR Anthony DeLuca

*SENATE COMMITTEE ON BANKING & INSURANCE*

10-30 Colleen Kennedy

MAJORITY CHAIR Donald C. White

11/30 Donna O'Connell

MINORITY CHAIR Sean Wiley

11/30/15 K Cooper

*INDEPENDENT REGULATORY REVIEW COMMISSION*

*ATTORNEY GENERAL (for Final Omitted only)*

*LEGISLATIVE REFERENCE BUREAU (for Proposed only)*

November 17, 2015