



ADMINISTRATIVE RULES OF MONTANA

6.6.6725 REQUIREMENTS APPLICABLE TO COVERED POLICIES TO OBTAIN CREDIT FOR REINSURANCE; OPPORTUNITY FOR REMEDIATION

- (1) Subject to the exemptions described in ARM 6.6.6722 and the provisions of (2) below, credit for reinsurance shall be allowed with respect to ceded liabilities pertaining to covered policies pursuant to 33-2-1216 or 33-2-1217, MCA, if, and only if, in addition to all other requirements imposed by law or regulation, the following requirements are met on a treaty-by-treaty basis:
 - (a) The ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of Title 33, chapter 2, part 4, MCA, and related regulations and actuarial guidelines, and credit claimed for any reinsurance treaty subject to ARM 6.6.6720 through 6.6.6727 does not exceed the proportionate share of those reserves ceded under the contract; and
 - (b) The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to ARM 6.6.6720 through 6.6.6727 and provides support for its calculation as determined to be acceptable to the commissioner; and
 - (c) Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of 33-2-1217, MCA, on a funds-withheld, trust, or modified coinsurance basis; and
 - (d) Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to (1)(c) above, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of 33-2-1217, MCA; and
 - (e) Any trust used to satisfy the requirements of this rule shall comply with all of the conditions and qualifications of trusts set forth in ARM Title 6, chapter 6, subchapter 38, except that:
 - (i) Funds consisting of primary security or other security held in trust, shall for the purposes identified in ARM 6.6.6724(2), be valued according to the valuation rules set forth in ARM 6.6.6724(2), as applicable; and
 - (ii) There are no affiliate investment limitations with respect to any security held in such trust if such security is not needed to satisfy the requirements of (1)(c) above; and
 - (iii) The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust (when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by (1)(c)) below 102% of the level required by (1)(c) at the time of the withdrawal or substitution; and

- (iv) The determination of reserve credit under ARM 6.6.3862 shall be determined according to the valuation rules set forth in ARM 6.6.6724(2), as applicable; and
 - (f) The reinsurance treaty has been approved by the commissioner.
- (2) Requirements at inception date and on an ongoing basis, and remediation, are as follows:
 - (a) The requirements of (1) must be satisfied as of the date that risks under covered policies are ceded (if such date is on or after September 1, 2022) and on an ongoing basis thereafter. Under no circumstances shall a ceding insurer take or consent to any action or series of actions that would result in a deficiency under (1)(c) or (1)(d) with respect to any reinsurance treaty under which covered policies have been ceded, and in the event that a ceding insurer becomes aware at any time that such a deficiency exists, it shall use its best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.
 - (b) Prior to the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of ARM 6.6.6721 shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of (1)(c) and (1)(d) were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to (1)(c), unless either:
 - (i) The requirements of (1)(c) and (1)(d) were fully satisfied as of the valuation date as to such reinsurance treaty; or
 - (ii) Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security and/or other security, as the case may be, in such amount and in such form as would have caused the requirements of (1)(c) and (1)(d) to be fully satisfied as of the valuation date.
 - (c) Nothing in (2)(b) above shall be construed to allow a ceding company to maintain any deficiency under (1)(c) and (1)(d) for any period of time longer than is reasonably necessary to eliminate it.

Authorizing statute(s): 33-1-313, 33-2-1517, MCA

Implementing statute(s): 33-2-1216, 33-2-1217, MCA

History: NEW, 2022 MAR p. 1691, Eff. 9/1/22.