



ADMINISTRATIVE RULES OF MONTANA



6.6.3841 CERTIFICATION OF ASSUMING INSURERS - ELIGIBILITY FOR CERTIFICATION

- (1) To be eligible for certification by the department, the assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to the following:
 - (a) United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions;
 - (b) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria in this rule; and
 - (c) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to assuming insurers licensed and domiciled in the United States. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose assuming insurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all assuming insurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include but are not limited to the following:
 - (i) the framework under which the assuming insurer is regulated;
 - (ii) the structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance;
 - (iii) the substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction;
 - (iv) the form and substance of financial reports required to be filed or made publicly available by assuming insurers in the domiciliary jurisdiction and the accounting principles used;
 - (v) the domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner in particular;

- (vi) the history of performance by assuming insurers in the domiciliary jurisdiction;
 - (vii) any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards;
 - (viii) any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization; and
 - (ix) any other matters deemed relevant by the commissioner.
- (d) If, upon conducting an evaluation under this rule with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.
- (2) To be eligible for certification, the assuming insurer must maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with ARM 6.6.3850. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000, and a central fund containing a balance of at least \$250,000,000.
- (3) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:
- (a) Standard & Poor's;
 - (b) Moody's Investors Service;
 - (c) Fitch Ratings;
 - (d) A.M. Best Company; or
 - (e) any other nationally recognized statistical rating organization.
- (4) The assuming insurer must comply with any other requirements reasonably imposed by the commissioner.

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

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