THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0175-1701
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as Rules of the Department of Insurance, IDAPA 18.01.75, "Credit for Reinsurance Rules." (7-1-99)

02. Scope. The purpose of this rule is to set forth rules and procedural requirements which the director deems necessary to carry out the Credit for Reinsurance provision, Section 41-51~~4~~5, Idaho Code. The actions and information required by this rule are hereby declared to be necessary and appropriate in the public interest and for the protection of the ceding insurers in this state. ~~(7-1-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by ~~*the provisions*~~ Chapter 2, Title 41, Idaho Code, the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ~~(7-1-96)~~(____)

004. INCORPORATION BY REFERENCE.
Consistent with National Association of Insurance Commissioners (NAIC) model regulation 786, the following documents applicable to letters of credit as referenced in subsections 061.02, 081.05 and 081.06 of this rule, are incorporated by reference. (____)

01. Documents. Copies of the following documents may be obtained by contacting our office. (____)

a. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, NAIC Securities Valuation Office and NAIC Structured Securities Group, December 31, 2016, edition, as referenced in subsection 061.02. (____)

b. The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 600 (UCP 600), July 1, 2007, edition, as referenced in subsection 081.05. (____)

c. The International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), 1998 edition, as referenced in subsection 081.06. (____)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – WEB ADDRESS.
The Department of Insurance is located at 700 W State St., Third Floor, Boise, ID 83702. The mailing address is PO Box 83720, Boise, ID 83720. The web address is www.doi.idaho.gov. Office hours are Monday-Friday, 8:00 am-5:00 pm. (____)

006. PUBLIC RECORDS ACT COMPLIANCE.
This rule is subject to and in compliance with the Public Records Act, Title 74, Chapter 1, Idaho Code. (____)

00~~4~~7. -- ~~01~~009. (RESERVED)

010. DEFINITIONS.

01. Beneficiary. When used in trust agreements qualified under this rule, the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). (____)

02. Grantor. The entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer. ( )

03. Mortgage-Related Security. Means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the securities valuation office of the NAIC and that either: ( )

a. Represents ownership of one (1) or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that: ( )

i. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; ( )

ii. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703; or ( )

b. Is secured by one (1) or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of subparagraphs 010.03.a.i. and 010.03.a.ii. ( )

04. Obligation. ( )

a. Losses Paid But Not Recovered. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer; ( )

b. Reserves for Reinsured Losses Reported and Outstanding; ( )

c. Reserves for Reinsured Losses Incurred But Not Reported; and ( )

d. Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums. ( )

05. Promissory Note. When used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument. ( )

011. CREDIT FOR REINSURANCE – REINSURER LICENSED IN THIS STATE.
Pursuant to Section 41-51~~4~~5(~~1~~2)(a), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of ~~the date of the ceding insurer's~~ statutory financial statement credit for reinsurance is claimed. ~~(7-1-96)~~( )

012. -- 020. (RESERVED)

021. CREDIT FOR REINSURANCE -- ACCREDITED REINSURERS.

01. Accredited Reinsurers. Pursuant to Section 41-51~~4~~5(~~1~~2)(b), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date ~~of the ceding insurer's~~ on which statutory financial statement credit for reinsurance is claimed. An

accredited reinsurer ~~is one which~~ must: ~~(7-1-96)~~(____)

a. ~~Has filed~~ File with the Idaho Department of Insurance ~~an application to act as an accredited reinsurer in this state, on forms and in the format provided by the director and received written notice of accreditation by the department~~ a properly executed form AR-1 (attached as an exhibit to this rule) as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records; ~~(7-1-99)~~(____)

b. File with the director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a U.S. branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state. (____)

~~b~~c. File~~s~~ annually with the director a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and ~~(7-1-96)~~(____)

~~c~~d. Maintain~~s~~ a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000) ~~and whose accreditation has not been denied by the director within ninety (90) days of its submission or, in the case of companies with a surplus as regards policyholders of less than twenty million dollars ($20,000,000), whose accreditation has been approved by the director~~ or obtain the affirmative approval of the director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. ~~(7-1-96)~~(____)

02. Denial of Accreditation. If the director determines that the assuming insurer has failed to meet or maintain any of these qualifications, he may upon written notice and hearing, suspend or revoke the accreditation. ~~No c~~Credit shall not be allowed a domestic ceding insurer under this section with respect to reinsurance ceded after 9/1/97 if the assuming insurer's accreditation has been denied or revoked by the director, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the director after notice and hearing. ~~(7-1-96)~~(____)

022. -- 030. (RESERVED)

031. CREDIT FOR REINSURANCE -- REINSURER DOMICILED AND LICENSED IN ANOTHER STATE.

Pursuant to Section 41-51~~4~~5(~~1~~2)(c), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which ~~as of the date of the ceding insurer's statutory financial statement~~ any date on which statutory financial statement credit for reinsurance is claimed: ~~(7-1-96)~~(____)

01. Applicable Domicile and License. Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under ~~the Act~~ Section 41-515, Idaho Code, and this rule; ~~(7-1-96)~~(____)

02. Maintains Surplus. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000); and (7-1-96)

03. Proper AR-1 Form Filed. Files a properly executed Form AR-1 with the director as evidence of its submission to this state's authority to examine its books and records. (7-1-96)

04. Provisions. The provisions of this section relating to surplus as regards policyholders shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards which the director determines equal or exceed the standards of Section 41-51~~4~~5, Idaho Code, and this rule. ~~(7-1-96)~~(____)

032. -- 040. (RESERVED)

041. CREDIT FOR REINSURANCE -- REINSURERS MAINTAINING TRUST FUNDS.

01. **Trust Fund**. Pursuant to Section 41-51~~4~~5(~~4~~2)(d), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer ~~which~~ that, as of ~~the~~ any date ~~of the ceding insurer's~~ on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified United States financial institution as defined in Section 41-51~~4~~5(4), Idaho Code, for the payment of the valid claims of its United States ~~policyholders and~~ domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the director substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the director to determine the sufficiency of the trust fund.
~~(7-1-96)~~(____)

02. **Requirements**. The following requirements apply to the following categories of assuming insurer: (7-1-96)

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to ~~business written in the~~ reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars ($20,000,000), except as provided for in paragraph 041.02.b. of this section. ~~(7-1-96)~~(____)

b. ~~The trust fund for a group which includes incorporated and individual unincorporated underwriters shall consist of funds in trust in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the director annual certifications by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter member of the group~~ At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the director or commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flow, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust. ~~(7-1-96)~~(____)

c. ~~The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars ($10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners) and which has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the assuming insurers' liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall file a properly executed Form AR-1 as evidence of the submission to this state's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the director annual certifications by the members' domiciliary regulators and their independent public accountants of the solvency of each member of the group.~~ The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of: ~~(7-1-96)~~(____)

i. For insurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group; (____)

ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this rule, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and ( )

iii. In addition to these trusts, the group shall maintain a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account. ( )

d. The incorporated members of the group within the scope of paragraph 041.02.c. of this section shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the director: ( )

i. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or ( )

ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group. ( )

e. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars ($10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and that has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, shall: ( )

i. Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group; ( )

ii. Maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and ( )

iii. File a properly executed form AR-1 as evidence of the submission to the Idaho Department of Insurance's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. ( )

f. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the director an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group. ( )

03. Acceptable Form. ~~*The trust shall be established in a form approved by the director and complying with Section 41-514(1), Idaho Code, and this section. The trust instrument shall provide that:* *(7-1-96)*~~( )

a. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the director or commissioner of the state where the trust is domiciled or the director or commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the director and commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that: ( )

~~#~~i. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States. (7-1-96)

~~b~~ii. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States ~~policyholders and~~ ceding insurers, their assigns and successors in interest. ~~(7-1-96)~~(____)

~~c~~iii. The trust shall be subject to examination as determined by the director. (7-1-96)

~~d~~iv. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust~~.~~; and (7-1-96)

~~e~~v. No later than February 28 of each year the trustees of the trust shall report to the director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31. (7-1-96)

~~f. No amendment to the trust shall be effective unless reviewed and approved in advance by the director. (7-1-96)~~

b. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the director or commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the director or commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund. (____)

c. The assets shall be distributed by and claims shall be filed with and valued by the director or commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies. (____)

d. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the director or commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement. (____)

e. The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision. (____)

04. Liabilities. For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include: (____)

a. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance: (____)

i. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer; (____)

ii. Reserves for losses reported and outstanding; (____)

iii. Reserves for losses incurred but not reported; (____)

iv. Reserves for allocated loss expenses; and (____)

v. Unearned premiums. (____)

b. For business ceded by domestic insurers authorized to write life, health and annuity insurance: (____)

i. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums: ( )

ii. Aggregate reserves for accident and health policies; ( )

iii. Deposit funds and other liabilities without life or disability contingencies; and ( )

iv. Liabilities for policy and contract claims. ( )

05. Assets. Assets deposited in trusts established pursuant to Section 41-515(2), Idaho Code, and section 041 of these rules shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 41-515(4)(a), Idaho Code, clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 41-515(4)(a), Idaho Code, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under paragraphs 041.05.a.v., 05.c., 05.e.ii. or 05.f. of this rule, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 41-515(2), Idaho Code, shall be invested only as follows: ( )

a. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by: ( )

i. The United States or by any agency or instrumentality of the United States; ( )

ii. A state of the United States; ( )

iii. A territory, possession or other governmental unit of the United States; ( )

iv. An agency or instrumentality of a governmental unit referred to in subparagraphs 041.05.a.ii. and 041.05.a.iii. if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or ( )

v. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )

b. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations: ( )

i. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated; ( )

ii. Are insured by at least one (1) authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or ( )

iii. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC. ( )

c. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )

d. An investment made pursuant to the provisions of paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection shall be subject to the following additional limitations: ( )

i. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust; ( )

ii. An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust; ( )

iii. The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and ( )

iv. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under subparagraphs 041.05.b.i. and 05.b.iii. of this subsection, but shall not exceed two percent (2%) of the assets of the trust. ( )

e. Equity interests: ( )

i. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if: ( )

(1) Its obligations and preferred shares, if any, are eligible as investments under paragraph 041.05.e.; and ( )

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a to 78kk or otherwise registered pursuant to that act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under paragraph 041.05.e. an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company; ( )

ii. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if: ( )

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and ( )

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development. ( )

iii. An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to paragraph 041.05.e., when added to the aggregate cost of other investments in equity interests then held pursuant to paragraph 041.05.e., shall not exceed ten percent (10%) of the assets in the trust. ( )

f. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. ( )

g. Investment companies: ( )

i. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. Section 80a, are permissible investments if the investment company: ( )

(1) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection or invests in securities that are determined by the director to be substantively similar to the types of securities set forth in paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection; or ( )

(2) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under subparagraph 041.05.e.i. of this subsection; ( )

ii. Investments made by a trust in investment companies under paragraph 041.05.e. shall not exceed the following limitations: ( )

(1) An investment in an investment company qualifying under subparagraph 041.05.g.i.(1) of this subsection, shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and ( )

(2) Investments in an investment company qualifying under subparagraph 041.05.g.i.(2) of this subsection, shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subparagraph 041.05.e.i. of this subsection. ( )

h. Letters of Credit: ( )

i. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. ( )

ii. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both. ( )

06. Security by an Unauthorized Assuming Insurer. A specific security provided to a ceding insurer by an assuming insurer pursuant to section 051 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section. ( )

042. CREDIT FOR REINSURANCE – CERTIFIED REINSURERS.

01. Certification and Security. Pursuant to Section 41-515(2)(e), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under section 042 of this rule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the director. The security shall be in a form consistent with the provisions of Section 41-515(2)(e) and (3), Idaho Code, and sections 071, 081, or 091 of this rule the amount of security required in order for full credit to be allowed shall correspond with the following requirements:

Rating	Security Required
Secure - 1	0%

Rating	Security Required
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

( )

b. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions. ( )

c. The director shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer. ( )

d. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one (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 director. The one (1) year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral: ( )

i. Line 1: Fire. ( )

ii. Line 2: Allied Lines. ( )

iii. Line 3: Farm owners multiple peril. ( )

iv. Line 4: Homeowners multiple peril. ( )

v. Line 5: Commercial multiple peril. ( )

vi. Line 9: Inland Marine. ( )

vii. Line 12: Earthquake. ( )

viii. Line 21: Auto physical damage. ( )

e. Credit for reinsurance under section 042 shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to section 042 with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract. ( )

f. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under section 042. ( )

02. Certification procedure: ( )

a. The director shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The

director may not take final action on the application until at least thirty (30) days after posting the notice required by paragraph 042.02.a. ( )

b. The director shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection 042.01. The director shall publish a list of all certified reinsurers and their ratings. ( )

c. In order to be eligible for certification, the assuming insurer shall meet the following requirements: ( )

i. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the director pursuant to subsection 042.03. ( )

ii. The assuming insurer must maintain capital and surplus, or its equivalent, of no less than two hundred fifty million dollars ($250,000,000) calculated in accordance with subparagraph 042.02.d.viii. of this section. 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 two hundred fifty million dollars ($250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars ($250,000,000). ( )

iii. The assuming insurer must maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the director. 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 (1) factor used by the director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following: ( )

(1) Standard & Poor's; ( )

(2) Moody's Investors Service; ( )

(3) Fitch Ratings; ( )

(4) A.M. Best Company; or ( )

(5) Any other nationally recognized statistical rating organization. ( )

iv. The certified reinsurer must comply with any other requirements reasonably imposed by the director. ( )

d. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following: ( )

i. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The director shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two (2) financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Rating	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-

Rating	Best	S&P	Moody's	Fitch
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 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 reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations; ( )

iii. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers); ( )

iv. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this rule); ( )

v. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership; ( )

vi. Regulatory actions against the certified reinsurer; ( )

vii. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following subparagraph 042.02.d.viii.; ( )

viii. For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or with the permission of the state insurance director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the director will consider audited financial statements for the last three (3) years filed with its non U.S. jurisdiction supervisor ( )

ix. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding; ( )

x. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The director shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and ( )

xi. Any other information deemed relevant by the director. ( )

e. Based on the analysis conducted under subparagraph 042.02.d.v. of a certified reinsurer's reputation for prompt payment of claims, the director may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the director shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subparagraph 042.02.d.i. if the director finds that: ( )

i. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more that are not in dispute and that exceed one

hundred thousand dollars ($100,000) for each cedent; or ( )

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

f. The assuming insurer must submit a properly executed form CR-1 (attached as an exhibit to this rule) as evidence of its submission to the jurisdiction of this state, appointment of the director as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The director shall not certify any assuming insurer that is domiciled in a jurisdiction that the director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards. ( )

g. The certified reinsurer must agree to meet applicable information filing requirements as determined by the director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that is not otherwise public information subject to disclosure shall be exempted from disclosure under Title 74, Chapter 1, Idaho Code, and shall be withheld from public disclosure. The applicable information filing requirements are, as follows: ( )

i. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor; ( )

ii. Annually, Form CR-F or CR-S, as applicable per instructions adopted by the Idaho Department of Insurance. ( )

iii. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following subparagraph 042.02.g.iv.; ( )

iv. Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor; ( )

v. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers; ( )

vi. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and ( )

vii. Any other information that the director may reasonably require. ( )

h. Change in Rating or Revocation of Certification. ( )

i. In the case of a downgrade by a rating agency or other disqualifying circumstance, the director shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subparagraph 042.02.d.i. ( )

ii. The director shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations. ( )

iii. If the rating of a certified reinsurer is upgraded by the director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the director shall require the certified

reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the director, the director shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer. ( )

iv. Upon revocation of the certification of a certified reinsurer by the director, the assuming insurer shall be required to post security in accordance with section 061 of this rule in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with section 041 of this rule, the director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the director to be at high risk of uncollectibility. ( )

03. Qualified Jurisdictions. ( )

a. If, upon conducting an evaluation under section 042 of this rule with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the director shall publish notice and evidence of such recognition in an appropriate manner. The director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified. ( )

b. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the director shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The director shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the director as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the director, 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 reinsurers in the domiciliary jurisdiction and the accounting principles used. ( )

v. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the director 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 U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the director has determined that it does not adequately and promptly enforce final U.S. 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. ( )

ix. Any other matters deemed relevant by the director. ( )

c. A list of qualified jurisdictions shall be published through the NAIC committee process. The director shall consider this list in determining qualified jurisdictions. If the director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the director shall provide thoroughly documented justification with respect to the criteria provided under subparagraphs 042.03.b.i. through 042.03.b.ix. of this subsection. ( )

d. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions. ( )

04. Recognition of Certification Issued by an NAIC Accredited Jurisdiction. ( )

a. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the director requires. The assuming insurer shall be considered to be a certified reinsurer in this State. ( )

b. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the director of any change in its status or rating within ten (10) days after receiving notice of the change. ( )

c. The director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with paragraph 042.02.h. of this subsection. ( )

d. The director may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the director suspends or revokes the certified reinsurer's certification in accordance with paragraph 042.02.h, the certified reinsurer's certification shall remain in good standing in this State for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State. ( )

05. Mandatory Funding Clause. In addition to the clauses required under section 101 of this rule, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer. ( )

06. Notification Requirements. The director shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions. ( )

04~~2~~3. -- 050. (RESERVED)

051. CREDIT FOR REINSURANCE REQUIRED BY LAW.
Pursuant to Section 41-51~~4~~5(~~1~~2)(~~e~~f), Idaho Code, the director shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-51~~4~~5(~~1~~2)(a), (b), (c), ~~or~~ (d), or (e), Idaho Code, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government. ~~(7-1-96)~~( )

052. -- 060. (RESERVED)

061. ASSET OR REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER NOT MEETING THE REQUIREMENT OF SECTIONS 011, 021, 031, 041, 042, AND 051.
Pursuant to Section 41-51~~4~~5(~~2~~3), Idaho Code, the director shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-51~~4~~5(~~1~~2), Idaho Code, in an amount not exceeding the liabilities carried by the ceding insurer. ~~Such~~ The reduction shall be in the amount of funds

held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations ~~there~~under the reinsurance contract. ~~Such~~ The security ~~must~~ shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 41-51~~4~~5(4)(b), Idaho Code. This security may be in the form of any of the following: ~~(7-1-96)~~(____)

01. Cash. (7-1-96)

02. Securities. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the NAIC Investment Analysis Office NAIC Securities Valuation Office and NAIC Structured Securities Group, and qualifying as admitted assets~~.~~; ~~(7-1-96)~~(____)

03. Letters of Credit. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 41-51~~4~~5(~~3~~4)(a), Idaho Code, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding ~~company~~ insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs~~.~~; or ~~(7-1-96)~~(____)

04. ~~Any~~ Other ~~Form of Security Acceptable to the Director~~. Any Other Form of Security Acceptable to the Director. ~~(7-1-96)~~(____)

05. Other Provisions Applicable. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to section 061 shall be allowed only when the requirements of section~~s~~ 101 ~~and the applicable portions of Sections 101~~ and the applicable portions of sections 074, 075, 076, 081, and 091 of this rule are met. ~~(7-1-99)~~(____)

062. -- 0~~69~~70. (RESERVED)

07~~0~~1. TRUST AGREEMENTS QUALIFIED UNDER IDAPA 18.01.75.061
Sections 074, 075, and 076 apply to trust agreements qualified under section 061. (____)

~~**071. BENEFICIARY.**~~
~~*Beneficiary means the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator).*~~ ~~(7-1-96)~~

~~**072. GRANTOR.**~~
~~*Grantor means the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer.*~~ ~~(7-1-96)~~

~~**073. OBLIGATIONS.**~~
~~*Obligations, as used in IDAPA 18.01.75, "Credit for Reinsurance Rules," means:*~~ ~~(7-1-99)~~

~~**01. Losses Paid but Not Recovered.** *Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;*~~ ~~(7-1-99)~~

~~**02. Reserves for Reinsured Losses Reported and Outstanding;**~~ ~~(7-1-96)~~

~~**03. Reserves for Reinsured Losses Incurred but Not Reported;** *and*~~ ~~(7-1-96)~~

~~**04. Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums.**~~ ~~(7-1-96)~~

072. -- 073. (RESERVED)

074. REQUIRED CONDITIONS.

01. Who Shall Enter the Agreement. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee which shall be a qualified United States financial institution as defined in Section 41-51~~4~~5(4)(b), Idaho Code. ~~(7-1-99)~~(____)

02. Trust Account. The trust agreement shall create a trust account into which assets shall be deposited. (7-1-99)

03. Who Shall Hold Assets in Trust Account. All assets in the trust account shall be held by the trustee at the trustee's office in the United States~~, except that a bank may apply for the director's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the director approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in Subsection 074.04.d. must also be presentable, as a matter of legal right, at the trustee's principal office in the United States~~. ~~(7-1-99)~~(____)

04. Provisions of Trust Agreement. The Trust Agreement shall provide that: (7-1-99)

a. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee; (7-1-96)

b. No other statement or document is required to be presented ~~in order~~ to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets; ~~(7-1-96)~~(____)

c. It is not subject to any conditions or qualifications outside of the trust agreement; and (7-1-96)

d. It shall not contain references to any other agreements or documents except as provided for under subsections 074.11 and 074.12. ~~(7-1-99)~~(____)

05. Sole Benefit of Beneficiary. The Trust Agreement shall be established for the sole benefit of the beneficiary. (7-1-99)

06. Required of Trustee. The Trust Agreement shall require the trustee to: (7-1-99)

a. Receive assets and hold all assets in a safe place; (7-1-96)

b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity; (7-1-96)

c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter; (7-1-96)

d. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account; (7-1-96)

e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and (7-1-96)

f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account. (7-1-96)

07. Written Notification of Termination. The trust agreement shall provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary. (7-1-99)

08. Subject to Laws of State in Which Trust is Established. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is ~~*established*~~ domiciled. ~~*(7-1-99)*~~( )

09. Prohibit Invasion of Trust Corpus. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. ~~*(7-1-99)*~~( )

10. Trustee Shall Be Liable. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence or willful misconduct, or both. ~~*(7-1-99)*~~( )

11. Purposes for Applying Amounts Drawn Upon Trust Account. Notwithstanding other provisions of this rule, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, ~~*such a*~~ the trust agreement may~~*, notwithstanding any other conditions in this rule*~~, provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes: ~~*(7-1-99)*~~( )

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer; (7-1-96)

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or (7-1-96)

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 41-51~~4~~5(4)(b), Idaho Code, apart from its general assets, in trust for such uses and purposes specified in subsections 074.11.a. and 074.11.b. as may remain executory after such withdrawal and for any period after the termination date. ~~*(7-1-99)*~~( )

12. Reinsurance Agreement Provisions. ~~*The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by Subsection 076.01.b., so long as these required conditions are included in the trust agreement.*~~ Notwithstanding other provisions of this rule, when a trust agreement is established to meet the requirements of section 061 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes: ~~*(7-1-99)*~~( )

a. To pay or reimburse the ceding insurer for: ( )

i. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on

account of cancellations of the policies; and ( )

ii. The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement; ( )

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or ( )

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in paragraphs 074.12.a. and 074.12.b. of this subsection as may remain executory after withdrawal and for any period after the termination date. ( )

13. **Trust Account Assets**. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement. ( )

075. PERMITTED CONDITIONS.

01. Resignation of Trustee. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee. (7-1-99)

02. Grantor's Rights. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name. (7-1-99)

03. Trustee's Authority to Invest. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in paragraph 076.01.b. ~~(7-1-99)~~( )

04. Transfer of Assets. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets. (7-1-99)

05. Termination of Trust Account. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor. (7-1-99)

076. ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS.

01. Reinsurance Agreement ~~*in Conjunction With Trust Agreement*~~. A reinsurance agreement~~, *which is entered into in conjunction with a trust agreement and the establishment of a trust account,*~~ may contain provisions that: ~~*(7-1-99)*~~(____)

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover; (7-1-96)

~~*b. Stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of the types permitted by the Insurance Code or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement may further specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement; (7-1-96)*~~

~~*c*~~**b.** Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity; (7-1-96)

~~*d*~~**c.** Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and (7-1-96)

~~*e*~~**d.** Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-96)

i. To pay or reimburse the ceding insurer for: ~~*the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;*~~ ~~*(7-1-96)*~~(____)

(1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; (____)

(2) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and (____)

(3) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; (____)

ii. To ~~*reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;*~~ make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer. ~~*(7-1-96)*~~(____)

~~*iii. To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses and unearned premium reserves; and (7-1-96)*~~

~~*iv. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.*~~

~~(7-1-96)~~

02. Other Provisions of Reinsurance Agreement. The Reinsurance Agreement may also contain provisions that: (7-1-99)

a. Give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided: ~~(7-1-96)~~(____)

i. The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the current fair market value of the assets withdrawn so as to maintain at all times the deposit in the required amount, or ~~(7-1-96)~~(____)

ii. After withdrawal and transfer, the current fair market value of the trust account is no less than one hundred and two percent (102%) of the required amount. ~~(7-1-96)~~(____)

~~iii. The ceding insurer shall not unreasonably or arbitrarily withhold its approval. (7-1-96)~~

b. Provide for~~:~~ the return of any amount withdrawn in excess of the actual amounts required for paragraph 076.01.d. and for interest payments, at a rate not in excess of the prime rate of interest on such amounts. ~~(7-1-96)~~(____)

~~i. The return of any amount withdrawn in excess of the actual amounts required for Subsections 076.01.e.i., or 076.01.e.ii., or 076.01.e.iii., or in the case of Subsection 076.01.e.iv., any amounts that are subsequently determined not to be due; and (7-1-99)~~

~~ii. Interest payments, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Subsection 076.01.e. (7-1-99)~~

c. Permit the award by any arbitration panel or court of competent jurisdiction of: (7-1-96)

i. Interest at a rate different from that provided in paragraph 076.02.b.; (7-1-99)

ii. Court of arbitration costs; (7-1-96)

iii. Attorney's fees, and (7-1-96)

iv. Any other reasonable expenses. (7-1-96)

03. Financial Reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure. (7-1-96)

04. Existing Agreements. Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence prior to July 1, 1996 will continue to be acceptable until 7/1/96, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable. (7-1-96)

05. Failure to Identify Beneficiary. The failure of any trust agreement to specifically identify the beneficiary as defined in section 0~~71~~10 ~~of this section~~ shall not be construed to affect any actions or rights which the director may take or possess pursuant to the provisions of the laws of this state. ~~(7-1-99)~~(____)

077. -- 080. (RESERVED)

081. LETTERS OF CREDIT QUALIFIED UNDER SECTION 061.

01. Letters of Credit Under Section 061. The letter of credit must be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 41-51~~4~~5(~~3~~4)(a), Idaho Code. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in ~~*Subsections*~~ subparagraph 081.0~~9~~8.a.i. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). ~~*(7-1-96)*~~( )

02. Heading of Letter. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only. (7-1-96)

03. Statement. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto. (7-1-96)

04. Term of Letter. The term of the letter of credit shall be for at least one (1) year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than thirty (30) days' notice prior to the expiration date or nonrenewal. (7-1-96)

05. Disclosure Statement. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce ~~(~~Publication ~~5~~600~~)~~ (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution. ~~*(7-1-96)*~~( )

06. Letter Subject to Uniform Customs and Practice. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce ~~(~~Publication ~~5~~600~~)~~ (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit shall specifically address and ~~*make provision*~~ provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article ~~*19*~~36 of Publication ~~5~~600 occur. ~~*(7-1-96)*~~( )

~~*07. Issued or Confirmed by Authorized Institution. The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to Section 41-514(3), Idaho Code.* (7-1-96)~~

0~~8~~7. Exception. If the letter of credit is issued by a ~~*qualified*~~ United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in subsection 081.0~~7~~1, then the following additional requirements shall be met: ~~*(7-1-96)*~~( )

a. The issuing ~~*qualified United States*~~ financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and ~~*(7-1-96)*~~( )

b. The "evergreen clause" shall provide for thirty (30) days' notice prior to the expiration date for nonrenewal. (7-1-96)

0~~9~~8. Reinsurance Agreement Provisions. (7-1-96)

a. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions ~~which~~ that: ~~(7-1-96)~~( )

i. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover. (7-1-96)

ii. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons: (7-1-96)

~~(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; (7-1-96)~~

~~(2) To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement; (7-1-96)~~

~~(3) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement (such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves); and (7-1-96)~~

~~(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement. (7-1-96)~~

(1) To pay or reimburse the ceding insurer for: ( )

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; ( )

(b) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and ( )

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; ( )

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount, and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in subparagraph 081.08.a.ii. as may remain after withdrawal and for any period after the termination date. ( )

iii. All of the foregoing provisions of ~~subsection~~ paragraph 081.0~~9~~8.a. should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer. ~~(7-1-96)~~( )

b. Nothing contained in ~~subsection~~ paragraph 081.0~~9~~8.a. shall preclude the ceding insurer and assuming insurer from providing for: ~~(7-1-96)~~( )

i. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to ~~subsection~~ paragraph 081.0~~9~~8.a.ii.~~(3)~~; ~~and~~ or ~~(7-1-96)~~( )

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts

required for the above or~~, in the case of Subsection 081.09.a.ii.(4),~~ any amounts that are subsequently determined not to be due. ~~(7-1-96)~~(____)

~~c. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of Subsection 081.09.a.ii., require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document. (7-1-96)~~

~~**10. No Reduction in Liability**. A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. Further, the reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure. (7-1-96)~~

082. -- 090. (RESERVED)

091. OTHER SECURITY.
A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control. (7-1-96)

092. -- 100. (RESERVED)

101. REINSURANCE CONTRACT.
Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of sections 011, 021, 031, 041, 042, or 061 or otherwise in compliance with Section 41-51~~1~~5(~~1~~2), Idaho Code, after the adoption of this rule unless the reinsurance agreement: ~~(7-1-96)~~(____)

01. Insolvency Clause. Includes ~~an~~ a proper insolvency clause ~~which provides~~ that stipulates, ~~in substance, the following:~~ that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Chapter 33, Title 41, Idaho Code; ~~(7-1-96)~~(____)

~~a. In the event of the ceding insurer's insolvency, the reinsurance afforded by the reinsurance agreement shall be payable by the assuming insurer directly to the ceding insurer or its domiciliary liquidator, on the basis of and at the time the ceding insurer's liability is determined in the liquidation proceedings, without diminution because of the ceding insurer's insolvency or because its liquidator has failed to pay all or a portion of any claim, except: (7-1-96)~~

~~i. Where the contract specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer; or (7-1-96)~~

~~ii. Where the assuming insurer, with the consent of the direct insured(s), has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees. (7-1-96)~~

~~b. The ceding insurer's liquidator, shall give written notice to the assuming insurer of the pendency of a claim against the insolvent ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose in the proceeding where the claim is to be adjudicated, at its own expense, any defense that it may deem available to the ceding insurer or its liquidator. The expense thus incurred by the assuming insurer shall be chargeable against the ceding insurer, subject to court approval, as part of the expense of liquidation to the extent of proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two (2) or more assuming companies are involved in the same claim and a majority in interest elect to interpose a defense to such claim, each assuming insurer's share of the expense thus incurred shall be determined in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer. (7-1-96)~~

02. ~~*Other Provision*~~ **Jurisdiction**. Includes a provision pursuant to Section 41-51~~4~~5(~~1~~2)~~(f)~~, Idaho Code, whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel~~.~~; and ~~(7-1-96)~~( )

03. **Reinsurance Intermediary Clause**. Includes a proper reinsurance intermediary clause, if applicable, that stipulates that the credit risk for the intermediary is carried by the assuming insurer. ( )

102. -- 110. **(RESERVED)**

111. CONTRACTS AFFECTED.
All new and renewal reinsurance transactions entered into after July 1, 1996 shall conform to the requirements of the Idaho Code and this rule if credit is to be given to the ceding insurer for such reinsurance. (7-1-96)

112. SEVERABILITY CLAUSE
If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this rule which can be given effect without the invalid provision or application, and to that end the provisions of this rule are severable. ( )

11~~2~~3. -- 999. **(RESERVED)**

~~*FORM AR-1*~~
~~*CERTIFICATE OF ASSUMING INSURER*~~

~~*I, (name of officer), (title of officer)*~~
~~*of, the assuming insurer*~~
~~*(name of assuming insurer)*~~
~~*under a reinsurance agreement(s) with one or more insurers domiciled in*~~
~~*(name of state), hereby certify that*~~
~~*("Assuming Insurer"):*~~
~~*(name of assuming insurer)*~~

~~*1. Submits to the jurisdiction of any court of competent jurisdiction in Idaho for the adjudication of any issues arising out of the reinsurance agreement(s), agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement(s) to arbitrate their disputes if such an obligation is created in the agreement(s).*~~

~~*2. Designates the Director of the Idaho Department of Insurance as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement(s) instituted by or on behalf of the ceding insurer.*~~

~~*3. Submits to the authority of the Insurance Commissioner of*~~
~~*(ceding insurer's state of domicile) to examine its books and records*~~
~~*and agrees to bear the expense of any such examination.*~~
~~*4. Submits with this form a current list of insurers domiciled in Idaho reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.*~~
~~*Dated:*~~
~~*(name of assuming insurer)*~~
~~*BY:*~~
~~*(name of officer)*~~
~~*(title of officer)*~~

Credit for Reinsurance Model Regulation

FORM AR-1

CERTIFICATE OF ASSUMING INSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in

_____, hereby certify that
(name of state)

_____("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in_____
(ceding insurer's state of domicile)

for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____
(ceding insurer's state of domicile)
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Insurance Commissioner of _____ to examine
(ceding insurer's state of domicile)
its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in _____
(ceding insurer's state of domicile)
reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____

_____
(name of assuming insurer)

BY: _____
(name of officer)

_____
(title of officer)

786-34

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Model Regulation Service—January 2012

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____, _____
(name of officer) (title of officer)

of _____, the assuming insurer
(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____,
in order to be considered for approval in this state, hereby certify that (name of state)

_____("Assuming Insurer"):
(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____
(ceding insurer's state of domicile)
for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____
(ceding insurer's state of domicile)
as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

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Credit for Reinsurance Model Regulation

Dated: _____

_____
(name of assuming insurer)

BY: _____
(name of officer)

_____
(title of officer)

Form CR-F – PART 1
Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15
					6	7	8							
Company Code or ID Number		Name of Reinsured	Domiciliary Jurisdiction	Assumed Premium	Paid Losses and Loss Adjustment Expenses	Known Case Losses and LAE	Cols. 6 + 7	Contingent Commissions Payable	Assumed Premiums Receivable	Unearned Premium	Funds Held By or Deposited With Reinsured Companies	Letters of Credit Posted	Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit	Amount of Assets Pledged or Collateral Held in Trust
9999999 Totals														

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Credit for Reinsurance Model Regulation

Form CR-F – PART 2

Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	6	Reinsurance Recoverable On									Reinsurance Payable		18	19
						7	8	9	10	11	12	13	14	15	16	17		
Company Code or ID Number		Name of Reinsurer	Domiciliary Jurisdiction	Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	Reinsurance Premiums Ceded	Paid Losses	Paid LAE	Known Case Loss Reserves	Known Case LAE Reserves	IBNR Loss Reserves	IBNR LAE Reserves	Unearned Premiums	Contingent Commissions	Cols. 7 through 14 Totals	Ceded Balances Payable	Other Amounts Due to Reinsurers	Net Amount Recoverable From Reinsurers Cols. 15 – [16 + 17]	Funds Held by Company Under Reinsurance Treaties
9999999 Totals																		

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Form CR-S – PART 1 – SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

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Credit for Reinsurance Model Regulation

Form CR-S – PART 1 – SECTION 2

Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

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Model Regulation Service—January 2012

Form CR-S – PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
Totals—Life, Annuity and Accident and Health						

Form CR-S – PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
Totals—Life, Annuity and Accident and Health						

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Form CR-S – PART 3 – SECTION 1

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1	2	3	4	5	6	7	Reserve Credit Taken		10	Outstanding Surplus Relief		13	14
Company Code or ID Number		Effective Date	Name of Company	Location	Type of Reinsurance Ceded	Amount in Force at End of Year	8 Current Year	9 Prior Year	Premiums	11 Current Year	12 Prior Year	Modified Coinsurance Reserve	Funds Withheld Under Coinsurance
Totals													

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Form CR-S – PART 3 – SECTION 2

Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1	2	3	4	5	6	7	8	9	Outstanding Surplus Relief		12	13
									10	11		
Company Code or ID Number		Effective Date	Name of Company	Location	Type	Premiums	Unearned Premiums (Estimated)	Reserve Credit Taken Other than for Unearned Premiums	Current Year	Prior Year	Modified Coinsurance Reserve	Funds Withheld Under Coinsurance
Totals												

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