

## CHAPTER 20:06:31

### CREDIT FOR REINSURANCE

#### Section

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Appendix A Repealed.

**20:06:31:27. Certified reinsurers -- ~~ratings~~Ratings.** 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:

(1) 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 financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification;

Ratings	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
<del>Secure</del> Secure -2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
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, Bs, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD
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(2) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

(3) For certified reinsurers domiciled in the U.S., a review of the most recent applicable ~~National Association of Insurance Commissioners Annual Statement Blank~~, either Form Schedule F, provided by the director, for property/casualty reinsurers or Form Schedule S, provided by the director, for life and health reinsurers;

(4) For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F, provided by the director, for property/casualty reinsurers, or Form CR-S, provided by the director, for life and health reinsurers;

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

(6) Regulatory actions against the certified reinsurer;

(7) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (8) of this section;

(8) Audited financial statements for certified reinsurers not domiciled in the U.S., ~~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, with a translation into English. Upon the initial application for certification, the director will consider audited financial statements for the last ~~three~~ two years filed with its non-U.S. jurisdiction's supervisor;

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

(10) A certified reinsurer'-s participation in any solvent scheme of arrangement, or similar procedure, ~~which involves~~ involving 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

(11) Any other information deemed relevant by the ~~directly~~ director.

**Source:** 44 SDR 71, effective October 23, 2017.

**General Authority:** SDCL 58-14-17.

**Law Implemented:** SDCL 58-14-16.1, ~~58-14-17~~.

**20:06:31:30. Certified reinsurers - ~~filing~~ Filing requirements.** The certified reinsurer ~~must~~ shall 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 shall be investigated by the division. The filing requirements are, as follows:

(1) Notify the director within ten 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 therefore;

(2) Annually file the applicable Form CR-F or CR-S, provided by the director;

(3) Annually file the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision (4) of this section;

(4) Annually file the most recent 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 certified reinsurer's domiciliary jurisdiction, with a translation into English. Upon the initial certification, the director will consider audited financial statements for the last ~~three~~ two years filed with the certified reinsurer's supervisor;

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

(6) File 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

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

**Source:** 44 SDR 71, effective October 23, 2017.

**General Authority:** SDCL 58-14-17.

**Law Implemented:** SDCL 58-14-16.1, ~~58-14-17~~.