

The Texas Department of Insurance Adopts New Reinsurance Rules



Burnie Burner
bburner@mwlaw.com
(512) 480.5100

12/17/2021

The Texas Department of Insurance has taken the next step in implementing the Covered Agreement requirement by adopting rules relating to reciprocal reinsurers with the effective date of the rule on January 1, 2022.

S.B. 1689 which adds the reciprocal reinsurer provisions to Texas law will become effective on January 1, 2022 as Tex. Ins. Code Ann. § 493.108 (“Insurance Code”). On November 9, 2021, TDI adopted rules that very closely mirror the NAIC’s Model Regulation #786 as 28 Tex. Admin. Code § 7.615 (“Administrative Code”). These sections of the Insurance and Administrative Codes add a new way for a ceding insurer to receive credit for reinsurance ceded to a non-U.S. assuming reinsurer domiciled in a “reciprocal jurisdiction.”

As defined in Tex. Ins. Code Ann. § 493.108, a “reciprocal jurisdiction” is an EU-member country or any other non-U.S. jurisdiction that enters into a covered agreement with the U.S.; U.S. jurisdictions that meet the requirements of the NAIC’s financial regulation standards and accreditation program; and non-U.S. jurisdictions that are qualified jurisdiction, as determined by the Commissioner under Section 493.1035 of the Insurance Code. There are currently three reciprocal jurisdictions approved by the NAIC: Bermuda, Japan, and Switzerland.

In Texas, a ceding insurer will now receive credit for reinsurance when dealing with an assuming reinsurer that is domiciled in a reciprocal jurisdiction, as defined above, if the reinsurer meets certain requirements imposed by Tex. Ins. Code Ann. § 493.108 and 28 Tex. Admin. Code § 7.615. To be eligible to enter into zero collateral reinsurance agreements, the reinsurer must: (1) satisfy certain requirements related to capital and surplus, solvency, prompt payment, and absence of participation in solvent scheme of arrangement; and (2) agree to certain conditions, such as submission to the jurisdiction of the State of Texas, appointing the Commissioner as the reinsurer’s agent for service of process, and providing certain documentation to the Texas Department of Insurance

On October 14, 2021, Mitchell Williams filed the inaugural application for reciprocal status on behalf of a Bermuda domiciled client, to be effective upon the effective date of the new statute and rule, January 1, 2022.