

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue
Cranston, RI 02920

INSURANCE REGULATION 91

**ALIEN INSURANCE COMPANIES -- RHODE ISLAND AS PORT OF ENTRY
STATE**

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Section 1 **Definitions**

- A. "Alien Insurance Company" means any insurance company incorporated or organized under the laws of any country other than the United States.
- B. "Authorized Control Level Risk Based Capital" means the number determined under the risk-based capital formula in accordance with the provisions of R.I. Gen. Laws § 27-4.6-1, et seq.
- C. "Commissioner" means the Director of the Department of Business Regulation.
- D. "Domestic Insurer" means any insurance company incorporated under the authority of this state.
- E. "License" means the approval granted under Section 3 of this Regulation.
- F. "State" means any state, commonwealth, territory or possession of the United States and the District of Columbia.

- G. "Trusteed Assets" means the assets in a trust account which the Commissioner requires be established and maintained by an alien insurance company.
- H. "Trusteed Surplus" means the aggregate value of the Alien Insurance Company's general state deposits and Trusteed Assets deposited with a trustee in compliance with Sections 4 and 5 of this Regulation, plus accrued investment income thereon where such income is collected by the states for trustees, less the aggregate net amount of all of its reserves and other liabilities in the United States as determined in accordance with Section 6, all as adjusted by any other amounts deemed appropriate by the Commissioner.
- I. "United States" means the several states, commonwealths, territories and possessions of the United States and the District of Columbia.
- J. "United States Branch" means the business unit through which business is transacted within the United States by an Alien Insurance Company and the assets and liabilities of the Alien Insurance Company within the United States pertaining to such business.

Section 2 Scope

This regulation applies to any Alien Insurance Company that seeks the approval of the Commissioner to be treated as a Domestic Insurer of this state pursuant to R.I. Gen. Laws § 27-59-2. Any Alien Insurance Company that has received the Commissioner's authorization to be treated as a Domestic Insurer of this state shall transact all of its United States business through a United States Branch which has been approved pursuant to the requirements of this Regulation. The United States Branch shall also be subject to all state laws and regulations applicable to an insurer domiciled in this state unless otherwise provided.

Any Alien Insurance Company that has received the Commissioner's authorization to be treated as a Domestic Insurer of this state shall be required to use the State of Rhode Island as its state of entry to transact insurance business in the United States.

Section 3 Authorization for Entry

- A. Before authorizing an Alien Insurance Company through its United States Branch to enter this state and be treated as a Domestic Insurer of this state, the Commissioner shall require the Alien Insurance Company to:
 - (1) Submit to the Commissioner a copy of (i) its charter and by-laws, if any, currently in force, and such other documents necessary to show the kinds of business which it is empowered to do in its

domiciliary jurisdiction, attested to as accurate and complete by the insurance supervisory official in its domiciliary jurisdiction; (ii) a full statement, subscribed and affirmed as true under the penalties of perjury by two officers or equivalent responsible representatives in such manner as the Commissioner shall prescribe, of its financial condition as of the close of its latest fiscal year, showing its assets, liabilities, income, disbursements, business transacted and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its domiciliary jurisdiction; and (iii) an English language translation, as necessary, of any of the documents required herein;

- (2) Submit to an examination of the Alien Insurance Company's affairs at its principal office within the United States; provided however, the Commissioner in his/her discretion may accept a report of the insurance supervisory official of the insurer's domiciliary jurisdiction;
- (3) Qualify as an insurer licensed to do business in this state in accordance with all applicable statutes and regulations;
- (4) Establish a trust account, pursuant to the terms of a trust agreement approved by the Commissioner, with a qualified United States financial institution, in a manner and in an amount required under Sections 4 and 5 hereof. For purposes of this Regulation, a qualified United States financial institution shall be defined as in R.I. Gen. Laws § 27-1.1-3;
- (5) Complete and submit to the Commissioner an application on the form(s) prescribed by the Commissioner; and
- (6) Satisfy the requirements of all other applicable rules, regulations and statutes and submit any and all information requested by the Commissioner.

- B. Any Alien Insurance Company that has satisfied the requirements of Section 3A hereof shall be granted approval to be treated as a Domestic Insurer of this state in whole or in part and granted a License to transact all of its United States business through its United States Branch.

Section 4 Maintenance of Trust Account

Trusted Assets shall at all times be in an amount equal to the United States Branch's reserves and other liabilities plus the minimum capital and surplus or Authorized Control Level Risk Based Capital, whichever is greater, required to be maintained by a Domestic Insurer licensed to do the same kind(s) of insurance.

Section 5 **Requirements for Trust Agreement**

- A. The deed of trust and all amendments thereto shall be authenticated in such form and manner as the Commissioner may prescribe and shall not be effective unless approved by the Commissioner upon finding that:
- (1) A deed of trust and its amendments are sufficient in form and in conformity with law;
 - (2) The trustee(s) are eligible and duly appointed to serve as such; and
 - (3) The deed of trust is adequate to protect the interests of the beneficiaries of the trust.
- B. The deed of trust and all amendments thereto shall contain provisions which:
- (1) Vest legal title to Trusteed Assets in the trustee(s), and their successors lawfully appointed;
 - (2) Require that all assets deposited in the trust shall be continuously kept within the United States;
 - (3) Provide for substitution of a new trustee(s) subject to the approval of the Commissioner in the event of a vacancy by death, resignation or otherwise;
 - (4) Require that the trustee(s) shall continuously maintain a record at all times sufficient to identify the assets of such fund;
 - (5) Require that the Trusteed Assets shall consist of cash and/or investments, including accrued investment income thereon if collectible by the trustee(s), eligible for investment in the same manner as the funds of Domestic Insurers;
 - (6) Require that the trust shall be for the exclusive benefit, security and protection of the policyholders, or policyholders and creditors, of the United States Branch and that it shall be maintained as long as there is outstanding any liability of the Alien Insurance Company arising out of its insurance transactions in the United States; and
 - (7) Provide, in substance, that no withdrawals of Trusteed Assets, other than as specified in subsections C and D of this Section 5, shall be made or permitted by the trustee or trustees without the prior written approval of the Commissioner except to:

- (i) Make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors, of the United States Branch;
 - (ii) Substitute other assets permitted by law which assets are at least equal in value and quality to those withdrawn, upon the specific written direction of the United States manager when duly empowered and acting pursuant to either general or specific written authority previously given or delegated by the board of directors of the Alien Insurance Company; or
 - (iii) Transfer such assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.
- C. The deed of trust may provide that statutory net income, earnings, dividends or interest accumulations of the assets of the trust account may be paid over to the United States manager of the United States Branch upon request, provided that the total Trusteed Assets shall not thereby be less than the amount required to be maintained pursuant to Section 4 of this Regulation.
- D. The deed of trust may provide for the withdrawal of Trusteed Assets for deposit in another state in which the insurer is authorized to do business, if, in lieu of approval by the Commissioner, the deed of trust requires prior written approval of the insurance supervising official of that state for withdrawal of Trusteed Assets, provided that the total Trusteed Assets would not thereby be less than the amount required to be maintained pursuant to Section 4 of this Regulation. In any event the deed of Trust shall require the United States Branch to promptly notify the Commissioner in writing of the nature and extent of all withdrawals.
- E. The Commissioner may from time to time approve or require modifications of, or variations in, any deed of trust, which in the Commissioner's judgment are not prejudicial to the interests of the people of this state or the United States policyholders and creditors of the United States Branch.
- F. The Commissioner may from time to time:
 - (1) Require the trustee(s) to file a statement, in such form as the Commissioner may prescribe, certifying the assets of the trust fund and the amounts thereof;

- (2) Make examinations of the Trusteed Assets of any Alien Insurance Company licensed under this Regulation at the insurer's expense; and
 - (3) Make such other and further examinations of the licensed Alien Insurance Company as the Commissioner deems necessary and advisable.
- G. Refusal or neglect of any trustee(s) to comply with the requirements of this Regulation shall be grounds for the Commissioner to require that the Alien Insurance Company remove said trustee(s) and appoint a substitute trustee(s) acceptable to the Commissioner.

Section 6 **Reporting Requirements**

- A. In addition to all other requirements of this Regulation, every Alien Insurance Company that has been granted a License shall, not later than the first day of March in each year and forty five (45) days after the end of each of the first three (3) calendar year quarters, file with the Commissioner and with the National Association of Insurance Commissioners:
 - (1) Annual and quarterly statements of the business transacted within the United States and the assets held by or for it within the United States for the protection of policyholders and creditors within the United States, and of the liabilities incurred against such assets. The forms shall not contain any statement in regard to its assets and business elsewhere unless said forms are filed as a supplement to the statements required herein. The statements shall be in the same format required of an insurer domiciled in Rhode Island and licensed to write the same kind(s) of insurance;
 - (2) A statement of Trusteed Surplus, in such form as the Commissioner may prescribe, as of the end of the same period covered by the statement filed pursuant to subsection A(1) of this Section. In determining the net amount of the United States Branch's liabilities in the United States to be reported in the statement of Trusteed Surplus, the United States Branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statement as prescribed by the Commissioner; and
 - (3) Any additional information that the Commissioner may require relating to the total business or assets, or any portion thereof, of the Alien Insurance Company.

- B. The annual statement and Trusteed Surplus statement shall be signed and verified by the United States manager, attorney-in-fact, or a duly empowered assistant United States manager, of the United States Branch. The items of securities and other property held under a deed of trust as Trusteed Assets shall be certified in the Trusteed Surplus statement by the United States trustee(s).
- C. Every report on examination of a United States Branch shall include a Trusteed Surplus statement as of the date of examination in addition to the general statement of the financial condition of the United States Branch.

Section 7 **Additional Requirements**

- A. Every Alien Insurance Company that has been granted a License pursuant to Section 3 of this Regulation shall meet the following requirements:
 - 1. At the request of the Commissioner the Alien Insurance Company shall from time to time (i) provide satisfactory proof, either in the Alien Insurance Company's charter or by a duly certified resolution of its board of directors, or otherwise as the Commissioner may require, that the Alien Insurance Company is not authorized to engage in any insurance business in contravention of the provisions of this Regulation or applicable laws; and (ii) provide satisfactory proof by a duly certified resolution of its board of directors, or otherwise as the Commissioner may require, that the Alien Insurance Company has not engaged in any insurance business in contravention of the provisions of this Regulation or applicable laws.
 - 2. No Alien Insurance Company licensed hereunder shall be permitted to do any kind of insurance business, or any combination of kinds of insurance business, in this state, which are not permitted to be done by April 15, 1998 Domestic Insurers licensed in this state unless in the judgment of the Commissioner the doing of such kind or combination of kinds of insurance business will not be prejudicial to the best interests of the people of this state;
 - 3. No Alien Insurance Company shall be licensed hereunder if it does anywhere within the United States any kind of business other than an insurance business, and the business necessarily or properly incidental to an insurance business thereto which it is authorized to do in this state; and
 - 4. An Alien Insurance Company shall keep complete and accurate books and records of its United States Branch business, which books and records shall at all times be open to inspection by

person(s) invested by law with the rights of inspection. All such books and records shall be maintained in its principal office within this state.

Section 8 Authority of Commissioner

Whenever it appears to the Commissioner after reasonable notice and hearing that an Alien Insurance Company licensed hereunder has failed to comply with any requirements or limitations of this Regulation, any other requirements or limitations imposed by the Commissioner, or any other applicable law or regulation of this state, or whenever the Commissioner has determined that the continued operation of any Alien Insurance Company licensed hereunder will or may be hazardous to the policyholders, creditors or general public, the Commissioner may proceed against the Alien Insurance Company licensed hereunder, and/or its United States Branch and/or its Trusteed Assets pursuant to R.I. Gen. Laws §§ 27-12.2-1 *et seq*, 27-14.1-1 *et seq*, 27-14.2--1 *et seq*, 27-14.3-1 *et seq* and 27-14.4-1 *et seq* and any other applicable laws and/or regulations.

EFFECTIVE DATE:	July 28, 1998
AMENDED:	None
REFILED:	December 19, 2001