

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

INSURANCE

TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

(By authority conferred on the director of the department of insurance and financial services by sections 210 and 1106 of the insurance code of 1956, 1956 PA 218, MCL 500.210 and 500.1106, and Executive Reorganization Order No. 2013-1, MCL 550.991)

R 500.121 Definitions.

Rule 1. (1) As used in these rules:

(a) “Accounting practices and procedures manual” means the NAIC accounting practices and procedures manual described in section 1106(3)(c) of the act, MCL 500.1106.

(b) “Act” means the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(c) “Actuarial method” means the methodology used to determine the required level of primary security pursuant to R 500.126.

(d) “Covered policy” or “covered policies” means 1 or more policies of the following types that are not grandfathered policies, unless exempted from these rules under R 500.125:

(i) Life insurance policies with guaranteed nonlevel gross premiums, guaranteed nonlevel benefits, or both, except for flexible premium universal life insurance policies.

(ii) Flexible premium universal life insurance policies with provisions that enable a policyholder to keep a policy in force over a secondary guarantee period.

(e) “Grandfathered policies” means policies of the types described in subdivision (d)(i) and (ii) of this subrule that were issued before January 1, 2015, and ceded, as of December 31, 2014, as part of a reinsurance treaty that would not have met an exemption under R 500.125 if that rule was effective.

(f) “Non-covered policies” means a policy or policies that are not covered policies, including grandfathered policies.

(g) “Primary security” means the following forms of security:

(i) Cash, to the extent that this form of security would meet the requirements described in section 1105 of the act, MCL 500.1105.

(ii) Securities listed by the Securities Valuation Office of the NAIC meeting the requirements of section 1105(b) of the act, MCL 500.1105, excluding the following:

(A) A synthetic letter of credit, contingent note, credit-linked note, or other similar security that operates in a manner similar to a letter of credit.

(B) Securities issued by the ceding insurer or any of its affiliates.

(iii) For security held in connection with funds withheld and modified coinsurance reinsurance treaties, the following:

(A) Commercial loans in good standing of CM3 quality and higher, as assigned by the NAIC and prescribed by the director.

(B) Policy loans.

(C) Derivatives acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

(h) “Other security” means any security that is not primary security and is acceptable to the director.

(i) “Required level of primary security” means the dollar amount determined by applying the actuarial method to the risks ceded with respect to covered policies, but not more than the total reserve ceded.

(j) “Risk-based capital” or “RBC” means the requirements described in section 410 of the act, MCL 500.410, as prescribed by the director.

(k) “Valuation manual” means the valuation manual described in section 1106(2) of the act, MCL 500.1106, as prescribed by the director pursuant to section 836b of the act, MCL 500.836b, in effect for the financial statement date on which credit for reinsurance is claimed.

(l) “VM-20” means the requirements for principle-based reserves for life products and all relevant definitions under the valuation manual.

(2) A term defined in the act has the same meaning when used in these rules.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.122 Purpose.

Rule 2. (1) With respect to reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits, and universal life insurance policies with secondary guarantees, these rules ensure that funds consisting of primary security and other security are held by or on behalf of ceding insurers in the forms and amounts required under these rules.

(2) These rules create requirements in this state that support establishment of uniform, national standards governing the reserve financing arrangements described in subrule (1) of this rule.

(3) As used in this rule, reserve financing arrangements include reinsurance ceded for reserve financing purposes where some or all of the assets used to secure the reinsurance treaty, or to capitalize the reinsurer, meet 1 or more of the following:

(a) Are issued by the ceding insurer or its affiliates.

(b) Are not unconditionally available to satisfy the general account obligations of the ceding insurer.

(c) Create a reimbursement, indemnification, or another similar obligation of the ceding insurer or any of its affiliates, excluding a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.123 Severability.

Rule 3. If any provision of this regulation is held invalid, the remainder is not affected.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.124 Applicability.

Rule 4. (1) These rules apply to reinsurance treaties that cede liabilities pertaining to covered policies issued by a life insurance company domiciled in this state.

(2) These rules and R 500.1121 to R 500.1134 apply to reinsurance treaties described in subrule (1) of this rule. However, if there is a direct conflict between a provision of these rules and R 500.1121 to R 500.1134, the provision of these rules applies to the extent of the conflict.

(3) These rules apply to covered policies in force on or after the effective date of these rules.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.125 Exemptions.

Rule 5. (1) These rules do not apply to the following situations:

(a) Reinsurance of any of the following:

(i) Policies that satisfy the criteria for the exemption described in section 838(7)(g) or (h) of the act, MCL 500.838, if issued before the later of the following dates:

(A) The effective date of these rules.

(B) The date the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but not later than January 1, 2020.

(ii) Portions of policies that satisfy the criteria for the exemption described in section 838(7)(f) of the act, MCL 500.838, if issued before the later of the following dates:

(A) The effective date of these rules.

(B) The date the ceding insurer begins to apply the provisions of VM-20 to establish the ceded policies' statutory reserves, but not later than January 1, 2020.

(iii) Any universal life policy that meets all of the following requirements:

(A) The secondary guarantee period, if any, is 5 years or less.

(B) The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the commissioners standard ordinary valuation tables and valuation interest rate applicable to the issue year of the policy.

(C) The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.

(iv) Credit life insurance.

(v) A variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(vi) A group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of 1 year.

(b) Reinsurance ceded to an assuming insurer that meets the applicable requirements of section 1103(4) of the act, MCL 500.1103.

(c) Reinsurance ceded to an assuming insurer that meets the applicable requirements of section 1103(1) of the act, MCL 500.1103, with respect to reinsurance ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state, or of

section 1103(2) or (3) of the act, MCL 500.1103. This subdivision does not apply unless both of the following are met with respect to the assuming insurer:

(i) Statutory financial statements are prepared in compliance with the accounting practices and procedures manual, without any departures from NAIC statutory accounting practices and procedures pertaining to the admissibility or valuation of assets or liabilities that increase the assuming insurer's reported surplus and are material enough that they need to be disclosed in the financial statement of the assuming insurer pursuant to statement of statutory accounting principles number 1.

(ii) Is not in a company action level event, regulatory action level event, authorized control level event, or mandatory control level event, as those terms are defined in RBC, when its risk-based calculation is calculated in accordance with the life risk-based capital report, including overview and instructions for companies, without deviation.

(d) Reinsurance ceded to an assuming insurer that meets the applicable requirements of section 1103(1) of the act, MCL 500.1103, with respect to reinsurance ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state, or of section 1103(2) or (3) of the act, MCL 500.1103. This subdivision does not apply unless all of the following are met with respect to the assuming insurer:

(i) Is not an affiliate, as that term is defined in section 115 of the act, MCL 500.115, of either of the following:

(A) The insurer ceding the business to the assuming insurer.

(B) An insurer that directly or indirectly ceded the business to that ceding insurer.

(ii) Prepares statutory financial statements in compliance with the accounting practices and procedures manual.

(iii) Is both of the following:

(A) Licensed or accredited in at least 10 states, including its state of domicile.

(B) Not licensed in a state as a captive, special purpose vehicle, special purpose financial captive, special purpose life reinsurance company, limited purpose subsidiary, or another similar licensing regime.

(iv) Is not, or would not be, below 500% of the authorized control level risk-based capital, as that term is defined in RBC, when its risk-based calculation is calculated in accordance with the life risk-based capital report, including overview and instructions for companies, without deviation or recognition of a departure from NAIC statutory accounting practices and procedures pertaining to the admission or valuation of assets or liabilities that increase the assuming insurer's reported surplus.

(e) Reinsurance ceded to an assuming insurer that meets the requirements of section 1106(3) of the act, MCL 500.1106.

(f) Reinsurance not otherwise exempt under subdivisions (a) to (e) of this subrule if the director, after consulting with the NAIC Financial Analysis Working Group or other group of regulators designated by the NAIC, as applicable, determines under all the facts and circumstances that all of the following apply:

(i) The risks are clearly outside of the purpose of these rules, as established in R 500.122.

(ii) The risks are included within the scope of these rules only as a technicality.

(iii) The application of these rules to those risks is not necessary to provide appropriate protection to policyholders.

(2) The director shall publicly disclose any decision made pursuant to subrule (1)(f) of this rule to exempt a reinsurance treaty from these rules. The disclosure must state the general basis for the decision, including a summary description of the treaty.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.126 Actuarial method.

Rule 6. (1) The actuarial method used to establish the required level of primary security for each reinsurance treaty subject to these rules must be VM-20, applied on a treaty-by-treaty basis, including all relevant definitions, from the valuation manual. The actuarial method must be applied as follows:

(a) For covered policies described in R 500.121(1)(d)(i) the actuarial method is the greater of the deterministic reserve or the net premium reserve regardless of whether the criteria for exemption testing can be met. However, if the covered policies do not meet the requirements of the stochastic reserve exclusion test in the valuation manual, the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the net premium reserve. In addition, if the covered policies are reinsured in a reinsurance treaty that also contains covered policies described in R 500.121(1)(d)(ii), the ceding insurer may elect to instead apply subdivision (b) of this subrule as the actuarial method for the entire reinsurance agreement. The actuarial method must comply with any requirements or restrictions that the valuation manual imposes when aggregating these policy types as used in principle-based reserve calculations when applying this subdivision or subdivision (b) of this subrule.

(b) For covered policies described in R 500.121(1)(d)(ii), the actuarial method is the greatest of the deterministic reserve, the stochastic reserve, or the net premium reserve regardless of whether the criteria for exemption testing can be met.

(c) Except as provided in subdivision (d) of this subrule, the actuarial method must be applied on a gross basis to all risks with respect to the covered policies as originally issued or assumed by the ceding insurer.

(d) If the reinsurance treaty cedes less than 100% of the risk, with respect to the covered policies, the required level of primary security may be reduced as follows:

(i) If a reinsurance treaty cedes only a quota share of some or all of the risks pertaining to the covered policies, the required level of primary security, and any adjustment under paragraph (iii) of this subdivision, may be reduced to a pro rata portion in accordance with the percentage of the risk ceded.

(ii) If the reinsurance treaty in a non-exempt arrangement cedes only the risks pertaining to a secondary guarantee, the required level of primary security may be reduced by an amount determined by applying the actuarial method on a gross basis to all risks, other than risks related to the secondary guarantee, pertaining to the covered policies. However, for covered policies for which the ceding insurer did not elect to apply the provisions of VM-20 to establish statutory reserves, the required level of primary security may be reduced by the statutory reserve retained by the ceding insurer on those covered policies, where the retained reserve of those covered policies is reflective of any reduction pursuant to the cession of mortality risk on a yearly renewable term basis in an exempt arrangement.

(iii) If a portion of the covered policy risk is ceded to another reinsurer on a yearly renewable term basis in an exempt arrangement, the required level of primary security may

be reduced by the amount resulting by applying the actuarial method, including the reinsurance section of VM-20, to the portion of the covered policy risks ceded in the exempt arrangement. However, for covered policies issued before January 1, 2017, the adjustment must not exceed $[c_x / (2 * \text{number of reinsurance premiums per year})]$ where “ c_x ” is calculated using the same mortality table used in calculating the Net Premium Reserve.

(iv) For any other treaty ceding a portion of risk to a different reinsurer, including, but not limited to, stop loss, excess of loss, and other non-proportional reinsurance treaties, there is no reduction in the required level of primary security.

(e) For the purposes of applying subdivision (d) of this subrule, any combination of subdivision (d)(i) to (iv) of this subrule may apply, in which case the adjustments to the required level of primary security must be done in the sequence that accurately reflects the portion of the risk ceded by the treaty. In addition, the ceding insurer shall document the rationale and steps taken to accomplish the adjustments to the required level of primary security due to the cession of less than 100% of the risk. The adjustments for other reinsurance must be made only with respect to reinsurance treaties entered into directly by the ceding insurer. The ceding insurer shall not make an adjustment as a result of a retrocession treaty entered into by the assuming insurers.

(f) Without exception, the required level of primary security resulting from applying the actuarial method must not exceed the amount of statutory reserves ceded.

(g) Without exception, if the ceding insurer cedes risks with respect to covered policies, including any riders, in more than 1 reinsurance treaty subject to these rules, the aggregate required level of primary security for those reinsurance treaties must not be less than the required level of primary security calculated using the actuarial method as if all risks ceded in those treaties were ceded in a single treaty subject to these rules.

(h) If a reinsurance treaty subject to these rules cedes risk on both covered policies and non-covered policies, credit for the ceded reserves must be determined as follows:

(i) The actuarial method must be used to determine the required level of primary security for the covered policies, and R 500.127 must be used to determine the reinsurance credit for the covered policy reserves.

(ii) Credit for the non-covered policy reserves must be granted only to the extent that security, in addition to the security held to satisfy the requirements of paragraph (i) of this subdivision, is held by or on behalf of the ceding insurer in accordance with sections 1103 and 1105 of the act, MCL 500.1103 and 500.1105. Any primary security used to meet the requirements of this paragraph must not be used to satisfy the required level of primary security for the covered policies.

(2) For the purposes of calculating the required level of primary security pursuant to the actuarial method and determining the amount of primary security and other security, as applicable, held by or on behalf of the ceding insurer, the following apply:

(a) For assets, including assets held in trust, that would be admitted under the accounting practices and procedures manual if they were held by the ceding insurer, the valuations must be determined according to statutory accounting procedures as if the assets were held in the ceding insurer’s general account and without taking into consideration the effect of any prescribed or allowed practices.

(b) For all other assets, the valuations must be the valuations that were assigned to the assets for the purpose of determining the amount of reserve credit taken. In addition, the

asset spread tables and asset default cost tables required by VM-20 must be included in the actuarial method if the director adopts the requirement following its adoption by the NAIC's Life Actuarial (A) Task Force no later than the December 31 that occurs on or immediately preceding the valuation date for which the required level of primary security is calculated. The tables of asset spreads and asset default costs must be incorporated into the actuarial method in the manner specified in VM-20.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.127 Credit for reinsurance for covered policies; requirements; remediation.

Rule 7. (1) Subject to the exemptions described in R 500.125 and subrules (2) to (4) of this rule, credit for reinsurance must be allowed with respect to ceded liabilities pertaining to covered policies pursuant to section 1103 or 1105 of the act, MCL 500.1103 and 500.1105, only if, in addition to all other requirements imposed by law or regulation, all of the following requirements are met on a treaty-by-treaty basis:

(a) The ceding insurer's statutory policy reserves with respect to the covered policies are established in full and in accordance with the applicable requirements of the standard valuation law that is described in section 1106(2) of the act, MCL 500.1106, and adopted under chapter 8 of the act, MCL 500.808 to 500.842, including related regulation or rules and actuarial guidelines, and credit claimed for any reinsurance treaty subject to these rules does not exceed the proportionate share of those reserves ceded under the contract.

(b) The ceding insurer determines the required level of primary security with respect to each reinsurance treaty subject to these rules and provides support for its calculation as determined acceptable to the director.

(c) Funds consisting of primary security, in an amount at least equal to the required level of primary security, are held by or on behalf of the ceding insurer, as security under the reinsurance treaty within the meaning of section 1105 of the act, MCL 500.1105, on a funds withheld, trust, or modified coinsurance basis.

(d) Funds consisting of other security, in an amount at least equal to any portion of the statutory reserves as to which primary security is not held pursuant to subdivision (c) of this subrule, are held by or on behalf of the ceding insurer as security under the reinsurance treaty within the meaning of section 1105 of the act, MCL 500.1105.

(e) Any trust used to satisfy the requirements of this rule must comply with all of the conditions and qualifications of R 500.1123 and R 500.1133, subject to the following:

(i) Funds consisting of primary security or other security held in trust, for the purposes identified in R 500.126(2), must be valued according to the valuation rules set forth in R 500.126(2), as applicable.

(ii) There are no affiliate investment limitations with respect to any security held in the trust if the security is not needed to satisfy the requirements of subdivision (c) of this subrule.

(iii) The reinsurance treaty must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the primary security within the trust, when aggregated with primary security outside the trust that is held by or on behalf of the ceding insurer in the manner required by subdivision (c) of this subrule, below 102% of the level required by subdivision (c) of this subrule at the time of the withdrawal or substitution.

(iv) The determination of reserve credit under R 500.1123(3) must be determined according to the valuation rules set forth in R 500.126(2), as applicable.

(f) The reinsurance treaty has been approved by the director.

(2) The requirements of subrule (1) of this rule must be satisfied as of the date that risks under covered policies are ceded, if that date is on or after the effective date of these rules, and on an ongoing basis afterward. With no exception, a ceding insurer shall not take or consent to any action or series of actions that would result in a deficiency under subrule (1)(c) or (d) of this rule with respect to any reinsurance treaty under which covered policies have been ceded, and if a ceding insurer becomes aware at any time that a deficiency described in this subrule exists, the ceding insurer shall use best efforts to arrange for the deficiency to be eliminated as expeditiously as possible.

(3) Before the due date of each quarterly or annual statement, each life insurance company that has ceded reinsurance within the scope of R 500.124 shall perform an analysis, on a treaty-by-treaty basis, to determine, as to each reinsurance treaty under which covered policies have been ceded, whether as of the end of the immediately preceding calendar quarter (the valuation date) the requirements of subrule (1)(c) and (d) of this rule were satisfied. The ceding insurer shall establish a liability equal to the excess of the credit for reinsurance taken over the amount of primary security actually held pursuant to subrule (1)(c) of this rule, unless either of the following apply:

(a) The requirements of subrule (1)(c) and (d) of this rule were fully satisfied as of the valuation date as to the reinsurance treaty.

(b) Any deficiency has been eliminated before the due date of the quarterly or annual statement to which the valuation date relates through the addition of primary security or other security, as applicable, in the amount and form as would have caused the requirements of subrule (1)(c) and (d) of this rule to be fully satisfied as of the valuation date.

(4) Subrule (3) of this rule does not allow a ceding company to maintain any deficiency under subrule (1)(c) and (d) of this rule for any period of time longer than is reasonably necessary to eliminate it.

History: 2025 MR 9, Eff. April 29, 2025.

R 500.128 Prohibition against avoidance.

Rule 8. An insurer that has covered policies applicable to these rules shall not take any action or series of actions or enter into any transaction or arrangement or series of transactions or arrangements, if the purpose is to avoid the requirements of these rules or to circumvent the purpose of these rules, as established in R 500.122.

History: 2025 MR 9, Eff. April 29, 2025.