

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 98  
(11 NYCRR 32)**

**REINSURANCE INTERMEDIARIES**

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 2102, 2106(e), 2120(b), and 2120(c) of the Insurance Law, do hereby promulgate the following First Amendment to Part 32 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 98), to take effect upon publication in the State Register, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

The statutory authority references for Part 32 are repealed and a new statutory authority is added to read as follows:

Insurance Law Sections 201, 301, 2102, 2106(e), 2120(b), and 2120(c)

Subdivisions (a) and (b) of Section 32.0 are amended to read as follows:

§32.0 Introduction.

(a) Section [122-a] 2106(e) of the Insurance Law [was added by chapter 620 of the Laws of 1976, effective September 1, 1976 and was amended by chapter 154 of the Laws of 1981, effective July 28, 1981. Subdivision 8 of section 122-a] provides that licensed reinsurance intermediaries shall be subject to examination by the superintendent as often as he may deem it expedient and that the superintendent may promulgate regulations establishing methods and procedures for facilitating and verifying compliance with the requirements of [section 122-a; subdivision 9 of section 122-a] sections 2101 and 2120; section 2120(b) provides that every reinsurance intermediary acting as such in this State shall be responsible, in a fiduciary capacity, for all funds received or collected in such capacity, and shall not, without the express consent of his or its principal or principals, mingle any such funds with his or its own funds held by him or it in any other capacity.

(b) This Part is promulgated to implement the provisions of [subdivisions 8 and 9 of] section [122-a] 2106(a) and section 2120(b) and (c) by establishing criteria, methods and procedures for facilitating and verifying compliance with said [subdivisions] subsections.

Subdivision (c) of Section 32.1 is amended to read as follows:

(c) If the reinsurance intermediary places reinsurance on behalf of a licensed ceding insurer with an unauthorized reinsurer, which is not an accredited reinsurer or which has not placed

adequate funds with the ceding insurer pursuant to section [70.7 ] 1301(a)(15) of the Insurance Law, he shall inquire into the financial condition of the assuming unauthorized reinsurer and in connection with such inquiry disclose such findings to the ceding insurer and make available to the ceding insurer a copy of the most recent financial statement. Notwithstanding the above, the ceding insurer may assume the obligation under this subdivision by releasing the intermediary in writing from his obligations under this subdivision.

Subdivision (e) of Section 32.2 is amended to read as follows:

(e) The provisions of this Part shall not apply to[:

(1)] the manager of a group, association or organization of insurers which engage in joint underwriting or joint reinsurance pursuant to the provisions of section [186-a] 2317 of the Insurance Law, provided, such manager applies to and is granted an exemption by the superintendent[; and].

[(2) underwriting managers designated by Underwriting Members of the New York Insurance Exchange, Inc., provided that:

(i) such designation shall have been filed with the New York Insurance Exchange, Inc. in its register of Approved Underwriting Managers;

(ii) the New York Insurance Exchange, Inc. adopts rules to accomplish the intent and purposes of this Part; and

(iii) this exemption shall not apply to any retrocessions handled by such underwriting manager of the New York Insurance Exchange, Inc.]