

Assessment of Public Comments for the Twelfth Amendment to 11 NYCRR 125 (Insurance Regulations 17, 20, and 20-A).

The New York State Department of Financial Services (“DFS”) received comment letters from an internationally active insurance and reinsurance market (“market”), from an internationally active reinsurer (“reinsurer”), and from a trade association representing domestic property/casualty insurers (“association”). The comment letters from the market and the reinsurer expressed unqualified support for the amendments to the regulation and provided no other comments. The comments from the association are discussed below.

Comment: With respect to proposed Section 125.4(i)(2)(iii)(c) of the regulation, which establishes a procedure whereby the Superintendent of Financial Services (“Superintendent”) consults with the reciprocal jurisdictions and considers recommendations by the National Association of Insurance Commissioners (“NAIC”) in determining minimum solvency or capital ratios for assuming insurers domiciled in reciprocal jurisdictions, the association asked how DFS plans to set the requisite capital ratios and recommended that DFS adhere to the minimum capital ratios deemed equivalent to the NAIC risk-based capital ratio of 300% of the authorized control level or 100% of the solvency capital requirement as calculated under Solvency II.

Response: DFS plans to adhere to the recommended minimum capital ratios. Therefore, DFS did not make any changes in response to this comment.

Comment: With respect to proposed Section 125.4(i)(2)(v)(c) and (d) of the regulation, which give the Superintendent the discretion to request, prior to entry into the reinsurance agreement and not more than semi-annually thereafter: (1) an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and (2) information regarding the assuming insurer’s assumed reinsurance by each ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverables on paid and unpaid losses by the assuming insurer to allow for the evaluation

of the criteria set forth in Section 125.4(i)(2)(vi), the association asked whether the reference to a “ceding insurer” refers only to a New York-domiciled insurer that is ceding the reinsurance.

Response: The reference to “ceding insurer” is not limited to a New York-domiciled insurer and means a ceding insurer domiciled anywhere in the United States.

Comment: The association stated that it would prefer that DFS request the information set forth in proposed Section 125.4(i)(2)(v)(c) and (d) of the regulation on a less frequent, as-needed basis, preferably annually and not semi-annually as permitted in the proposed regulation.

Response: Section 125.4(i)(2)(v)(c) and (d) of the regulation gives the Superintendent the discretion to request the information prior to entry into the reinsurance agreement and not more than semi-annually thereafter. This language is consistent with the NAIC Credit for Reinsurance Model Act and permits the Superintendent to request the information on an as-needed basis. The language does not require that the Superintendent request the information on a semi-annual basis. With that said, DFS typically reviews this information on an annual basis but may need to request the information more frequently if there is a solvency issue with any reciprocal reinsurer, for example. Thus, DFS did not make any changes in light of this comment.