

CHAPTER 99
LIMITED PURPOSE SUBSIDIARY LIFE INSURANCE COMPANIES

191—99.1(505,508) Authority. This chapter is promulgated by the commissioner of insurance pursuant to Iowa Code sections 505.8 and 508.33A.

[ARC 9229B, IAB 11/17/10, effective 12/22/10; ARC 5515C, IAB 3/10/21, effective 4/14/21]

191—99.2(505,508) Purpose. The purpose of this chapter is to authorize the establishment of domestic limited purpose subsidiary life insurance companies that are wholly owned by domestic insurers authorized to transact the business of insurance pursuant to Iowa Code chapter 508 and that may issue securities and otherwise access financial markets and alternative sources of capital through securitizations and other transactions.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.3(505,508) Definitions. For purposes of this chapter, the following definitions shall apply:

“*Affiliated companies*” means domestic life insurance companies that are directly or indirectly wholly owned subsidiaries of the same parent.

“*Ceding insurer*” means a domestic life insurance company that is an affiliated company of an LPS and that cedes risk to the LPS pursuant to a reinsurance contract.

“*Commissioner*” means the Iowa insurance commissioner.

“*Guaranty of a parent*” means an agreement to pay specified obligations of the LPS by a parent of the LPS approved by the commissioner that is not a ceding insurer and the guarantor has sufficient equity, less the equity of all ceding insurers that are subsidiaries of the guarantor, to satisfy the agreement during the life of the guaranty.

“*Insurance securitization*” or “*securitization*” means a transaction or a group of related transactions, which may include capital market offerings, that are effected through related risk transfer instruments and facilitating administrative agreements where all or part of the result of such transactions is used to fund the LPS’s obligations under a reinsurance contract with a ceding insurer and by which proceeds are:

1. Obtained by an LPS, directly or indirectly, through the issuance of securities by the LPS or any other person; or
2. Provided through one or more letters of credit or other assets for the benefit of the LPS, which the commissioner authorizes the LPS to treat as admitted assets for purposes of the LPS’s annual statement; where all or any part of such proceeds, letters of credit, or assets, as applicable, is used to fund the LPS’s obligations under a reinsurance contract with a ceding insurer. The terms “insurance securitization” and “securitization” do not include the issuance of a letter of credit for the benefit of the commissioner to satisfy all or part of the LPS’s capital and surplus requirements under this chapter.

“*Insurer*,” for purposes of this chapter, means a domestic life insurance company organized under Iowa Code chapter 508.

“*Letters of credit*” means clean, unconditional, irrevocable letters of credit issued or confirmed by a qualified United States financial institution as defined in Iowa Code section 521B.103(2) “c.”

“*LPS*” means a limited purpose subsidiary life insurance company organized pursuant to Iowa Code section 508.33A that is wholly owned by the organizing life insurance company and that is issued a certificate of authority by the commissioner pursuant to this chapter.

“*LPS security*” means:

1. A security issued by an LPS; or
2. A security issued by a third party, the proceeds of which are obtained directly or indirectly by an LPS.

“*Management*” means the board of directors, managing board, or other individual or individuals vested with overall responsibility for the management of the affairs of the LPS, including but not limited to officers or other agents elected or appointed to act on behalf of the LPS.

“*Material*” means a transaction or series of transactions involving amounts equal to or exceeding 3 percent of the LPS’s admitted assets less any letters of credit and intangible assets included as an admitted asset of the LPS.

“*Organizational document*” means an LPS’s articles of incorporation and bylaws.

“*Organizing life insurance company*” means the domestic life insurance company that organizes the LPS pursuant to Iowa Code section 508.33A.

“*Parent*” means a person as defined in Iowa Code section 521A.1 that directly or indirectly through one or more intermediaries wholly owns an LPS.

“*Reinsurance contract*” means a contract between an LPS and a ceding insurer pursuant to which the LPS agrees to provide reinsurance to the ceding insurer for risks.

“*Risk*” means risks associated with life insurance policies and contracts written by the ceding insurer or assumed by the ceding insurer from an affiliated company which were written by the affiliated company and for which the ceding insurer holds direct statutory reserves for those policies and contracts required by Iowa Code section 508.36.

“*Risk-based capital instructions*” means the instructions included in the risk-based capital report as adopted by the National Association of Insurance Commissioners, as such risk-based capital instructions may be amended by the National Association of Insurance Commissioners from time to time in accordance with the procedures adopted by the National Association of Insurance Commissioners.

“*Security*” means the same as defined in Iowa Code section 502.102 and shall also include any form of debt obligation, surplus note, derivative, or other financial instrument that the commissioner designates as a “security” for purposes of this chapter.

“*Subsidiary*” means the same as defined in Iowa Code section 521A.1(9).

“*Surplus note*” means an unsecured subordinated debt obligation possessing characteristics consistent with paragraph 3 of the National Association of Insurance Commissioners (NAIC) Statement of Statutory Accounting Principles No. 41, as amended from time to time and as modified or supplemented by rule or order of the commissioner.

[ARC 9229B, IAB 11/17/10, effective 12/22/10; ARC 5515C, IAB 3/10/21, effective 4/14/21]

191—99.4(505,508) Formation of LPS.

99.4(1) An LPS’s organizational documents shall limit the LPS’s authority to transact the business of reinsurance to reinsure only the risks of a ceding insurer and shall state that the LPS shall not otherwise engage in the business of insurance.

99.4(2) An LPS’s organizational documents shall provide that the LPS shall always be wholly owned by the organizing life insurance company and that the LPS’s stock shall be issued only to the organizing life insurance company.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.5(505,508) Certificate of authority.

99.5(1) *Certificate of authority required.* No LPS shall do any reinsurance business in this state unless it obtains from the commissioner a certificate of authority pursuant to this rule.

99.5(2) *Application for certificate of authority.* Before receiving a certificate of authority, an LPS shall do all of the following:

a. File with the commissioner a copy of its plan of operation.
b. File with the commissioner an affidavit of its president, a vice president, the treasurer, or the chief financial officer that includes all of the following statements, to the best of such person’s knowledge and belief, after reasonable inquiry:

(1) The proposed organization and operation of the LPS comply with all applicable provisions of this chapter.

(2) The LPS’s investment policy reflects and takes into account the liquidity of assets and the reasonable preservation, administration, and management of such assets with respect to the risks associated with the reinsurance contract.

(3) Any reinsurance contract and any arrangement for securing the LPS’s obligations under such reinsurance contract, including but not limited to any agreements or other documentation to implement such arrangement, comply with the provisions of this chapter.

c. File with the commissioner an opinion of legal counsel, in a form acceptable to the commissioner, that the offer and sale of any LPS securities comply with all applicable registration

requirements or applicable exemptions from or exceptions to such requirements of the federal securities laws and that the offer and sale of securities by the LPS itself comply with all registration requirements or applicable exemptions from or exceptions to such requirements of the securities laws of this state. Such opinions shall not be required as part of the application if the LPS includes a specific statement in its plan of operation that such opinions will be provided to the commissioner in advance of the offer or sale of any LPS securities.

d. File with the commissioner an opinion of a qualified independent actuary acceptable to the commissioner that the methodology and assumptions to set and discount reserves make good and sufficient provision for the risk assumed by the LPS, including significant stress tests on key assumptions.

e. Pay to the commissioner the reasonable expenses and costs incurred by the commissioner incident to examining the LPS's application pursuant to Iowa Code chapter 507.

f. Submit any other statements or documents required by the commissioner to evaluate the LPS's application for a certificate of authority.

99.5(3) *Material change in application.* In the event of any material change in any item required in subrule 99.5(2), the LPS shall notify the commissioner at least 30 days prior to the change and submit to the commissioner for approval any revised documents, opinions, or certifications.

99.5(4) *Grant of certificate of authority.*

a. The commissioner may grant a certificate of authority to an LPS, which shall be valid through the next June 1 following the date of initial issuance and which may be renewed annually thereafter, authorizing the LPS to transact reinsurance business as an LPS in this state upon a finding that:

- (1) The proposed plan of operation provides for a viable operation;
- (2) The terms of any reinsurance contract and related transactions comply with this chapter and all applicable insurance laws and regulations; and
- (3) The proposed plan of operation is not hazardous to any ceding insurer.

b. In conjunction with the issuance of a certificate of authority to an LPS, the commissioner may issue an order that includes any provisions, terms, and conditions regarding the organization, licensing, and operation of the LPS that the commissioner deems appropriate and that are not inconsistent with the provisions of this chapter.

99.5(5) *Scope of certificate of authority.* An LPS issued a certificate of authority may reinsure only the risks of a ceding insurer. An LPS shall not otherwise engage in the business of insurance. An LPS may purchase reinsurance to cede the risks assumed under a reinsurance contract, subject to the prior approval of the commissioner.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.6(505,508) Capital and surplus.

99.6(1) An LPS shall not be issued a certificate of authority unless it possesses and thereafter maintains unimpaired paid-in capital and surplus of not less than \$2.5 million.

99.6(2) The commissioner may prescribe additional tangible capital and surplus based upon the type, volume, and nature of reinsurance business transacted.

99.6(3) Minimum capital and surplus required by subrule 99.6(1) shall be in the form of cash or other securities that are investment grade at the time of acquisition and acceptable to the commissioner.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.7(505,508) Plan of operation.

99.7(1) An LPS shall have a plan of operation approved by its board of directors. The plan of operation shall include all of the following:

- a.* A complete description of all reinsurance transactions, reinsurance security arrangements, securitizations, and any other material transactions or arrangements.
- b.* The source and form of the LPS's capital and surplus.
- c.* The investment policy of the LPS.

d. Pro forma balance sheets and income statements illustrating one or more adverse case scenarios, as determined under criteria required by the commissioner, for the performance of the LPS under all reinsurance contracts.

e. Risk-based capital requirements, which, at a minimum, shall require the LPS to maintain risk-based capital equal to the product of two and one-half and the number determined under the life risk-based capital formula in accordance with the risk-based capital instructions.

f. Notice and reporting of material transactions.

g. Policies for payments of dividends and other distributions to the organizing life insurance company.

h. Copies of all contracts between the LPS and affiliated companies.

99.7(2) Any change in the LPS's plan of operation shall require prior approval of the commissioner.
[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.8(505,508) Dividends and distributions. An LPS may pay dividends and distributions that do not decrease the capital of the LPS below the minimum capital and surplus amount designated by the commissioner pursuant to rule 191—99.6(505,508), provided, however, that no dividend or distribution may be declared or paid by an LPS if such dividend or distribution would jeopardize the ability of the LPS to fulfill the LPS's obligations. The LPS shall give the commissioner 30 days' prior notice of any dividend or distribution. The notice shall include the amount of the dividend or distribution and a certification signed by an officer of the LPS stating that the dividend or distribution would not jeopardize the ability of the LPS to fulfill the LPS's obligations.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.9(505,508) Reports and notifications.

99.9(1) Notice of securitizations. An LPS shall provide the commissioner with a copy of a complete set of executed documentation of an insurance securitization no later than 45 days after the closing on the transactions for such securitization.

99.9(2) Notice of material change to financial condition. In the event of any material change in the financial condition or management of an LPS, the LPS shall notify the commissioner in writing within two business days of any such change.

99.9(3) Reports on reserves. An LPS shall file annually with the commissioner an actuarial opinion, in compliance with 191—5.34(508), on reserves for all risks assumed by the LPS pursuant to its reinsurance contracts provided by an internal actuary and may discount its reserves in accordance with that actuarial opinion, subject to approval by the commissioner. An LPS shall file biennially an opinion of a qualified independent actuary acceptable to the commissioner concerning the methods and assumptions used to set reserves.

99.9(4) Risk-based capital reports. An LPS shall file annually with the commissioner a report of the LPS's risk-based capital level as of the end of the calendar year immediately preceding containing the information required by the risk-based capital instructions.

99.9(5) Foreclosure on collateral. An LPS shall notify the commissioner immediately of any action by a ceding insurer or any other person to foreclose on or otherwise take possession of collateral provided by the LPS to secure any obligation of the LPS.

99.9(6) Filing reports with the National Association of Insurance Commissioners. Notwithstanding 191—5.3(507,508,515), 191—5.26(508,515), or any other rule, an LPS shall not be required to file any report, notice, or other document with the National Association of Insurance Commissioners unless required by the commissioner.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.10(505,508) Material transactions.

99.10(1) Notice of material transactions. An LPS shall not take any of the following actions unless the LPS provides the commissioner at least 30 days' prior written notice and the commissioner expressly approves the action:

a. The dissolution of the LPS.

- b. Any sale, exchange, lease, mortgage, assignment, pledge or other transfer or granting of a security interest in over 30 percent of the assets of the LPS.
- c. Any incurrence of material indebtedness by the LPS.
- d. Any making of a material loan or other material extension of credit by the LPS.
- e. Any material payment out of capital and surplus other than dividends or distributions paid in accordance with rule 191—99.8(505,508).
- f. Any merger or consolidation to which the LPS is a constituent party.
- g. Any transfer to or redomestication in any jurisdiction by the LPS.
- h. The termination of all or any part of an LPS's business.

This subrule shall not apply when an LPS takes any action described in paragraph “b” or “e” in accordance with the LPS's plan of operation.

99.10(2) *Prior approval of certain payments.* An LPS shall submit for prior approval of the commissioner periodic written requests for authorization to make payments of interest on and repayments of principal of surplus notes and other debt obligations issued by the LPS, provided that the commissioner shall not approve such payment if the commissioner determines that such payment would jeopardize the ability of the LPS or any other person to fulfill the person's respective obligations. [ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.11(505,508) Investments.

99.11(1) *Administration of assets.* The investment program developed by an LPS shall take into account the safety of the company's assets, investment yield and return, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs and investment diversification. The assets of an LPS shall be preserved and administered by or on behalf of the LPS to satisfy the liabilities and obligations of the LPS incident to the reinsurance contract, the insurance securitization, and other related agreements. For the purposes of this subrule, assets do not include letters of credit and guaranties of a parent. An LPS shall only invest its assets in cash and securities that are investment grade at the time of acquisition, provided, however, that an LPS may invest up to 10 percent of its assets in securities or other investments that are not investment grade at the time of acquisition and that are not:

- a. Securities rated 5 or higher by the Securities Valuation Office of the National Association of Insurance Commissioners at the time of acquisition;
- b. Asset-backed or mortgage-backed securities rated 3 or higher by the Securities Valuation Office of the National Association of Insurance Commissioners at the time of acquisition;
- c. Convertible bonds;
- d. Preferred or common stock; and
- e. Private equity or hedge funds.

99.11(2) *Securitization agreements.* The LPS securitization, the security-offering memorandum or other document issued to prospective investors regarding the offer and sale of a surplus note or other security shall include a disclosure that all or part of the proceeds of such insurance securitization will be used to fund the LPS's obligations to the ceding insurer.

99.11(3) *Admitted assets.* Admitted assets of the LPS shall include proceeds from a securitization, premium and other amounts payable by a ceding insurer to the LPS, letters of credit, guaranties of a parent, and any other assets approved by the commissioner, which shall be deemed to be, and reported as, admitted assets of the LPS. The commissioner has the authority to reduce the amount of admitted assets previously approved by the commissioner, other than assets already covered by the Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners, if the commissioner determines that the value of those assets has decreased. At least 30 days prior to reducing the amount of admitted assets previously approved, the commissioner shall notify the LPS and provide the LPS an opportunity to remedy the issues identified by the commissioner.

99.11(4) *Loans.* An LPS shall not make a loan to or an investment in any person, other than as permitted in the LPS's plan of operation, without prior written approval of the commissioner, and any

such loan or investment must be evidenced by documentation approved by the commissioner. Loans of minimum capital and surplus funds are prohibited.

99.11(5) *Investments in LPS.* The organizing life insurance company shall report its ownership in the LPS and value such ownership equal to the audited statutory surplus of the LPS.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.12(508) *Securities.* An LPS security shall not be subject to regulation as an insurance or reinsurance contract. An investor in such a security or a holder of such a security shall not be considered to be transacting the business of insurance in this state solely by reason of having an interest in the security. The underwriter's placement or selling agents and their partners, commissioners, officers, members, managers, employees, agents, representatives, and advisors involved in an insurance securitization by an LPS shall not be considered to be insurance producers or brokers or to be conducting business as an insurance or reinsurance company or as an insurance agency, brokerage, intermediary, advisory, or consulting business solely by virtue of their underwriting activities in connection with such securitization.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.13(505,508) *Permitted reinsurance.*

99.13(1) An LPS may reinsure, pursuant to a reinsurance contract, only the risks of a ceding insurer.

99.13(2) Unless otherwise approved in advance by the commissioner, an LPS may not assume or retain exposure to reinsurance losses for its own account that are not funded by one or more of the following:

- a. Proceeds from a securitization.
- b. Premium and other amounts payable by the ceding insurer to the LPS pursuant to the reinsurance contract.
- c. Letters of credit.
- d. Guaranties of a parent.
- e. Any return on investment of the items in paragraph "a" or "b" of this subrule.

99.13(3) An LPS may cede risks assumed through a reinsurance contract to one or more reinsurers through the purchase of reinsurance, subject to the prior approval of the commissioner.

99.13(4) An LPS may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of a reinsurance contract, an insurance securitization, and this chapter, provided such contracts and activities are included in the LPS's plan of operation or are otherwise approved in advance by the commissioner. Such contracts and activities may include but are not limited to: entering into reinsurance contracts; issuing LPS securities; complying with the terms of these contracts or securities; entering into trust, guaranteed investment contract, swap, or other derivative, tax, administration, services reimbursement, or fiscal agent transactions; complying with trust indenture, reinsurance, or retrocession; or entering into other agreements necessary or incidental to effect a reinsurance contract or an insurance securitization in compliance with this chapter and the LPS's plan of operation.

99.13(5) Unless otherwise approved in advance by the commissioner, a reinsurance contract shall not contain any provision for payment by the LPS in discharge of its obligations under the reinsurance contract to any person other than the ceding insurer or any receiver of the ceding insurer.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.14(505,508) *Certification of actuarial officer.* At the time an LPS files an application for a certificate of authority pursuant to subrule 99.5(2) and thereafter by March 1 of each year that an LPS is in operation and is ceded new business from a ceding insurer, a senior actuarial officer of each ceding insurer shall file with the commissioner a certification that the ceding insurer's transactions with an LPS are not being used to gain an unfair advantage in the pricing of the ceding insurer's products. A ceding insurer shall not be deemed to have an unfair advantage if the pricing of the policies and contracts reinsured by the LPS reflects, at the time those policies and contracts were issued, a reasonable long-term estimate of the cost to the ceding insurer of an alternative third-party transaction and utilizes current pricing

assumptions. The ceding insurer shall keep documentation between examinations that sets forth how a senior actuarial officer arrived at the conclusions in the certification.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

191—99.15(505,508) Effective date. This chapter is applicable on or after December 22, 2010.

[ARC 9229B, IAB 11/17/10, effective 12/22/10]

These rules are intended to implement Iowa Code sections 505.8 and 508.33A.

[Filed ARC 9229B (Notice ARC 9080B, IAB 9/22/10), IAB 11/17/10, effective 12/22/10]

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