

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.

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