

Delaware Tribe of Indians Tribal Regulations

Allied Reinsurance Company (ARC)

R-1. Authority

This regulation is promulgated pursuant to the general rule-making authority granted the Insurance Commissioner (“the Commissioner”) by the Insurance Company Act.

R-2. Purpose and Scope

The purpose of this regulation is to set forth the financial, reporting, record-keeping, and other requirements that the Commissioner deems necessary for the regulation of an ARC under the Insurance Company Act (“the Act”).

R-3. Definitions

- (1) “ARC” means an Allied Reinsurance Company, as defined in the Act.

R-4. Application and Forms

- (1) Any person desiring to form an ARC shall make application to the Commissioner for authority to conduct the business of reinsurance using the form specified by the Commissioner.
- (2) At least one of the copies of the application shall be signed in the manner prescribed in the application. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the application.
- (3) An ARC must include with its application, a five-year proforma business plan demonstrating the feasibility of the ARC’s plan of operation. The Commissioner may test the feasibility of the study by examining the ARC’s corporate records that the Commissioner deems necessary.

R-5. Fee Schedule, Initial Application, and Renewal

- (1) An applicant for an ARC certificate of authority under the Insurance Company Act shall pay a nonrefundable fee to the Commissioner, at the time the application is filed in the amount specified in the Insurers Fee Schedule, for examining, investigating, and processing its initial application for authorization.
- (2) In addition, each ARC that is authorized by the Commissioner shall pay a registration fee, without proration, for the initial year of registration.
- (3) Thereafter, each ARC will pay a renewal registration fee for each succeeding calendar year in the amount established in the Insurers Fee Schedule.

R-6. Annual Reporting Requirements

- (1) Every ARC shall file an annual report on the renewal filing form specified by the Commissioner.
- (2) Any material change in an ARC’s business plan that was filed with the Commissioner at the time of initial application and any subsequent amendment of the plan shall be reported to the Commissioner in the annual renewal process.

R-7. Documentation Required to be Held by an ARC

- (1) An ARC authorized by the Commissioner shall maintain and make ready for inspection and examination by the Commissioner, or the Commissioner’s agent, any and all documents pertaining to the formation, operation, management, finances, and reinsurance of the ARC.
- (2) Original documents may be kept in the offices of the ARC, the ARC’s insurance manager, or the ARC’s parent.

R-8. Reinsurance

- (1) Any ARC authorized to do business in this jurisdiction may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:
 - (a) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the transfer of the risk or liability from the ARC to the reinsurer.

- (b) No credit shall be allowed, as an asset or a deduction from liability, to any ARC for reinsurance unless the reinsurance is payable by the assuming reinsurer on the basis of the liability of the ARC under the contract reinsured without diminution because of the insolvency of the ARC.
- (2) Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.

R-9. Service Providers

- (1) The ARC may name the Commissioner as the Resident Agent for service of process in the Tribal jurisdiction.
- (2) The ARC may name an approved resident of the Tribal lands as its Resident Agent for any or all purposes under the Business Corporation Act and the Insurance Company Act.
- (3) The ARC may name an approved resident or non-resident Insurance Manager to represent the ARC in any or all matters coming before the Commissioner or other Tribal governmental regulators.

R-10. Suspension or Revocation

- (1) The Commissioner may by order suspend or revoke the certificate of authority of an ARC or place the same on probation on the following grounds:
 - (a) the ARC has not commenced business according to its plan of operation within two years of being authorized;
 - (b) the ARC has ceased to carry on reinsurance business from within the jurisdiction;
 - (c) at the request of the ARC;
 - (d) the ARC no longer qualifies as an ARC under the Insurance Company Act, or
 - (e) any other reason provided in the Business Corporation Act or the Insurance Company Act.
- (2) Before the Commissioner takes any action set forth under R-9(1), the Commissioner shall give the ARC notice in writing of the grounds on which the Commissioner proposes to act, and shall afford the ARC a hearing as to such proposed action.

R-11. Financial Requirements for an ARC with Net Written Premiums Greater than \$2,500,000

- (1) If an ARC has net written premiums in a calendar year greater than \$2,500,000, or such higher amount as the Commissioner shall specify, the ARC shall file an annual report of its financial condition with the Commissioner using generally accepted accounting principles ("GAAP") or statutory accounting principles ("SAP").
- (2) The Commissioner may require that the financial statements be audited financial statements in accordance with procedures specified by the Commissioner.
- (3) The annual report may be filed electronically consistent with directions from the Commissioner.

R-12. Severability

If any provision of this regulation or its application to any person or circumstance is, for any reason, held to be invalid, the remainder of this regulation and its application to other persons and circumstances are not affected.

R-13. Acquired Rights

- (1) As specifically limited by the rule-making authority granted the Insurance Commissioner hereunder and upon Issuance, as such term is defined in §300(4)(f) of the Insurance Company Act under Title 27, an insurer or reinsurer shall be bound by, and rely upon, the provisions and requirements of the Delaware Tribe of Indians Tribal Regulations at the sub-part Allied Reinsurance Company (ARC) ("Applicable Regulations") then promulgated on the date of such Issuance for subsequent recurring periods each consisting of five (5) years, each without regard to subsequent changes in the Applicable Regulations; and thereafter, such insurer or reinsurer shall be bound by, and rely upon, the provisions and requirements of the Applicable Regulations then promulgated on the first day of the sixth year subsequent to such Issuance, and each five (5) years thereafter (collectively "Regulatory Acquired Rights"). Provided however, that if during the term of any such Regulatory Acquired Rights, an insurer or reinsurer has its certificate of authority suspended or revoked pursuant to Section 500, captioned "Suspension or revocation", of the Insurance Company Act under Title 27, then such Regulatory Acquired Rights shall immediately terminate upon the final issuance of such suspension or revocation.

- (2) Notwithstanding (1) above, an insurer or reinsurer having Acquired Rights, may revoke such rights at any time upon written notice provided to, and received by, the Insurance Commissioner; provided however, any such revocation shall, upon the effective date of such notice, be final, binding, and irrevocable. Such notice shall be in a form approved by the Insurance Commissioner, and shall, at a minimum:
- a) identify the effective date of such election to revoke Acquired Rights, and
 - b) such effective date shall be no earlier than fifteen (15) days from the date of delivery to the Insurance Commissioner.