CHAPTER 69O-138
FINANCIAL EXAMINATIONS AND REQUIREMENTS

69O-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2020, is hereby adopted and incorporated by reference.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2019, is hereby adopted and incorporated by reference.

(2) Financial examinations by the Office shall be performed in substantial conformity with the methodology outlined in the Handbook, so long as that methodology is consistent with statutory accounting principles and the Florida Insurance Code.

(3) A copy of the Examiners Handbook may be:

(a) Obtained from the National Association of Insurance Commissioners, at http://www.naic.org; or

(b) Inspected during regular business hours at the Office of Insurance Regulation, Larson Building, 200 E. Gaines St., Tallahassee, Florida 32399-0300.

Rulemaking Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History–New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07, 3-16-08, 3-4-09, 1-4-10, 11-2-11, 1-28-13, 9-15-13, 7-28-15, 10-25-16, 7-30-17, 4-11-19, 7-3-22.

69O-138.002 Financial, Rate, and Market Conduct Examination Reimbursement Expenses.

(1) This rule establishes rates and procedures for reimbursement to the Office for examination and per diem expenses for examinations conducted by Office employees pursuant to the provisions of sections 624.316 and 624.3161, F.S.

(2) Examination and per diem charges will be computed beginning at the start of the examination of the insurer to be examined and the examiner's active participation in the examination planning, and ending at the completion of the examination and the end of the examiner's active participation in the examination. Where the examiner does not spend a full eight hour day in conducting the examination or planning, the insurer will only be charged for the time actually spent on planning or examination on a pro rata basis. If the examiner begins planning the examination more than a week prior to the actual on-site work, the Office will give written notice to the company being examined. No charges will be made for clerical or research work done by support staff to facilitate the examination or examiner's report. Charges will also be assessed for actual travel days as certified by the Office.

(3) The daily examination fee for each financial examination employee or dual financial and market conduct examination employee shall be at the rates as published in the National Association of Insurance Commissioners Financial Condition Examiners Handbook Attachment B which is adopted in rule 69O-138.001, F.A.C. The rates as published are applied as follows:

(a) The Insurance Company Examiner rate is applied to our Financial Examiner/Analyst I positions and any other positions not specifically identified.

(b) The Senior Insurance Examiner rate is applied to our Financial Examiner/Analyst II and Financial Specialist positions when

such examiners are not in an examiner-in-charge role.

(c) The Insurance Examiner-In-Charge rate is applied to any of our positions when such examiner is in the examiner-in-charge.

(d) The Administrative Examiner rate is applied to our Financial Examiner/Analyst Supervisor and any other positions that are in a supervisory capacity. In addition, the daily examination fee shall be $232 for each market conduct examination employee and $461 for each actuarial employee. The daily rates are applicable to each day the employees are participating in the examination.

(4) The per diem and other travel charges shall be the charges contained in the most current version of the Office's Administrative Policy and Procedure 7-4, (2-27-05) which is incorporated by reference and is available for inspection at the Tallahassee office of the Office, and shown on the examiner's expense voucher. Other travel expenses will also be charged based on actual travel expenses incurred by the examiners.

Rulemaking Authority 624.308(1) FS. Law Implemented 624.307(1), 624.316, 624.3161, 624.320 FS. History–New 3-30-92, Amended 12-27-92, Formerly 4-138.002, Amended 5-4-06.

69O-138.005 Exams By Non Employees.

(1) The Office is required by section 624.316(1)(a), F.S., to examine the affairs, transactions, accounts, records and assets of each authorized insurer and of the attorney in fact of a reciprocal insurer. The examination standards with which the Office must comply are established by statute and adopted by rule. The statutes and rules meet the requirements of the National Association of Insurance Commissioners for accreditation in the area of financial regulation. Any report received from another jurisdiction pursuant to this rule is received for purposes of assessing the financial condition of the insurer and not any other purpose. Any information contained in such a report which would be the subject of a market conduct report prepared by this Office is not relevant to this rule. The Office will be bound only by the information relevant to the financial condition of the insurer.

(2) Section 624.316(2)(b), F.S., requires the Office to examine each insurer applying for an initial Certificate of Authority to transact business in this state before granting the initial certificate. For purposes of this provision, the Office will, in the absence of a reasonable belief that the examination report is not accurate, accept the examination report of a foreign insurer as prepared by the insurance office of the insurer's domiciliary state if the domiciliary insurance office is accredited by the National Association of Insurance Commissioners in the area of financial regulation or if the examination is performed under the supervision of or with the participation of an examiner from a state which is so accredited and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their Insurance Office.

(3) Section 624.316(2)(c), F.S., permits the Office, in lieu of making its own examination of a foreign insurer, to accept a full report of the most recent examination of a foreign insurer, as certified to by the insurance supervisory official of another state. For purposes of this provision, the Office will, in the absence of a reasonable belief that the examination report is not accurate, accept the examination report of a foreign insurer as prepared by the insurance office of the insurer's domiciliary state if the domiciliary insurance office is accredited by the National Association of Insurance Commissioners in the area of financial regulation or if the examination is performed under the supervision of or with the participation of an examiner from a state which is so accredited and who, after a review of the examination work papers and report, states under oath that the examination was performed in a manner consistent with the standards and procedures required by that Insurance Office. Such reports of examination must be certified to by the insurance supervisory official of the state of domicile and mailed to the Office within 10 calendar days of receipt by the insurer, except that, if the report shows that the insurer has materially misstated its financial condition or that the insurer does not meet the minimum capital and surplus requirements of the Florida Insurance Code, the report must be sent to the Office within 5 business days of receipt using a facility that offers next day delivery service. A material misstatement is defined as a collective amount of 10% or more of total assets, total liabilities, or total capital and surplus.

(4) Section 624.316(2)(e), F.S., allows the Office to conduct examinations of an insurer by contracting for the services of an independent Certified Public Accountant, an actuary, a reinsurance specialist, an investment specialist, information technology specialist, or any combination of these individuals, as the particular circumstances of the examination require. An examination performed pursuant to this subsection must meet the requirements of subsection (1).

(a) An actuary meeting the criteria established in rule 69O-138.043 or 69O-170.031, F.A.C., will qualify to conduct an examination under this subsection.

(b)1. A reinsurance specialist shall be qualified to conduct an examination under this subsection if that contractor can demonstrate competency by education and experience to perform such an examination. Competency by education and experience

shall be demonstrated if any one of the following is true:

a. An individual qualifies as an actuary pursuant to either rule 69O-138.043 or 69O-170.031, F.A.C., and has at least one years' experience with the kind of reinsurance which will be the subject of the examination.

b. An individual has a bachelor's degree from an accredited college or university and four years of professional experience in insurance/reinsurance accounting or in reinsurance transactions. A master's degree from an accredited college or university in accounting, insurance, or risk management can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

c. An individual is in good standing with the Society of Financial Examiners and is certified by that organization to be eligible to hold the title of Certified Financial Examiner.

2. In selecting a person as a reinsurance specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed. This consideration shall include the individual's experience with the kind of insurance which is the subject of the examination; knowledge of accounting principles, practices and procedures; ability to prepare financial statements to reflect the reinsurance transactions; ability to provide professional and technical assistance; understanding of risk transfer as defined in the NAIC Examiners Handbook and the NAIC Accounting Practices and Procedures and Annual Statement Instruction Manuals, as adopted in rule 69O-137.001, F.A.C.; and the ability to evaluate claims experience, both reported and incurred but not reported, relevant to the type of insurance which is the subject of the examination.

(c)1. An investment specialist shall be qualified to conduct an examination under this subsection if that contractor can demonstrate competency by education and experience to perform such an examination in that capacity. Competency by education and experience shall be demonstrated if any one of the following is true:

a. An individual has a bachelor's degree from an accredited college or university and four years of professional experience in the capacity for which the contractor is to perform. A master's degree from an accredited college or university in accounting, or finance can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

b. An individual is in good standing with the Society of Financial Examiners and is certified by that organization to be eligible to hold the title of Certified Financial Examiner.

2. In selecting a person as an investment specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed.

(d)1. An information technology specialist shall be qualified to conduct an examination under this subsection if that contractor can demonstrate competency by education and experience to perform such an examination in that capacity. Competency by education and experience shall be demonstrated if the individual has a bachelor's degree from an accredited college or university and four years of professional experience in the capacity for which the contractor is to perform. A master's degree from an accredited college or university in information technology or a similar field can substitute for one year of the required experience. Professional experience as described above can substitute on a year-for-year basis for the required education.

2. In selecting a person as an information technology specialist the Office shall consider the individual's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed.

(e) The firm selected by the office to perform the examination shall have no conflicts of interest that might affect its ability to independently perform its responsibilities on the examination.

(f) The rates charged to the insurer being examined under the contract shall be consistent with rates charged by other firms in a similar profession and shall be comparable with the rates charged for comparable examinations. The rates and terms shall be set forth in the contract.

(g) Contractors may submit a curriculum vitae detailing their experience and qualifying credentials to the Office, as well as a proposed hourly rate for services to be performed. The acceptability of a contractor to the Office shall be determined based on consideration of the firm's professional competence, objectivity, and that the rates charged are consistent with rates charged by other firms in a similar profession, as referenced in subsection (4), above, providing comparable services, so as to protect the examined insurer from being overcharged for the examination. Once a contractor has been accepted by the Office, they will be placed on a list of eligible examination contractors.

(h) In selecting contractors to conduct a specific examination, the Office shall consider the contractor's experience, knowledge, skill, and abilities as they relate to the needs of the examination to be performed. This consideration shall include the contractor's experience with the kind of insurance which is the subject of the examination.

(i) After a contractor has been selected for a specific examination the Office shall enter into a contract with the contractor, detailing the scope of work for the engagement. The contract shall include a provision that the contractor has no conflict of interest that might affect its ability to independently perform its responsibilities. The contractor shall submit all requests for payment to the Office in the manner prescribed by the contract.

(j) All requests for reimbursement of travel expenses are to be made on Form DFS-C1-500, http://www.flrules.org/Gateway/reference.asp?No=Ref-08299, State of Florida Voucher For Reimbursement of Travel Expenses, (Rev. 12/13). This form is incorporated by reference and adopted by this rule for this purpose. It is available at http://www.floir.com/sitedocuments/DFS-C1-500.xls.

(k) Upon receipt and review of the contractor's request for payment, the Office will invoice the insurer being examined and the insurer shall make payment to the Office pursuant to sections 624.316(2)(e)3. and 624.320(1), F.S.

(l) Upon receipt of the payment from the insurer being examined, the Office will make payment to the contractor in accordance with the rates and terms set out in the contract.

(5) Section 624.316(2)(f), F.S., requires the examination of a domestic insurer once each year for any domestic insurer that has continuously held a Certificate of Authority for less than 3 years. For purposes of an examination under this subsection, the 3 years shall constitute the time period from the date the Certificate of Authority is granted through the following 3 full calendar years in which the insurer has been licensed. The examination must cover the preceding fiscal year or the time period since the last examination.

Rulemaking Authority 624.308(1), 624.316(2) FS. Law Implemented 624.307(1), 624.316, 624.3161, 624.320, 624.321(1), 624.424 FS. History–New 6-9-93, Amended 11-23-94, 4-4-99, Formerly 4-138.005, Amended 7-1-09, 7-30-17.

69O-138.020 Requirements for Maintaining Cash and Certificates of Deposit Outside the State of Florida.

(1) This rule applies to all domestic insurers subject to part I of chapter 628, F.S.

(2) Definitions.

(a) "Coin and currency of the United States," as used in section 625.306, F.S., shall include demand certificates of deposit as long as the certificates are non-negotiable, can be redeemed prior to maturity, and are issued by a solvent national bank, savings and loan association, or trust company which is a member of the Federal Reserve System.

(b) "National bank, savings and loan association, or trust company" is defined as a banking institution which is a member of the Federal Reserve System.

(3) An insurer which has deposits in banking institutions outside the State of Florida shall be deemed to be in compliance with section 628.271(2), F.S., if the insurer maintains the original physical evidence of ownership and the original bank records within Florida.

Rulemaking Authority 624.308(1) FS. Law Implemented 624.307(1), 625.306, 628.271(2) FS. History–New 3-30-92, Formerly 4-138.020.

69O-138.021 Special Consent Investments.

(1) This rule implements the provisions of section 625.331, F.S., and applies to all authorized insurers as defined in section 624.09, F.S.

(2) Automatic Revocation and Renewal Procedure.

(a) Each special consent investment currently on an insurer's statutory balance sheet, which has been approved or granted by the Office, either expressly or by implication, prior to December 31, 1991, is revoked 90 days after the effective date of this rule. Each insurer that currently has a special consent investment on its statutory balance sheet approved or granted by the Office, either expressly or by implication, on or before December 31, 1991, shall resubmit the investment to the Office for renewal pursuant to provisions of paragraph (2)(c) of this subsection.

(b) On or after January 1, 1992, all special consent investments approved or granted by the Office shall have an effective duration of one year or less, but may be for a period in excess of 1 year if the approval contains a specific expiration date for that special consent. Unless otherwise specified, all special consents shall expire at midnight on March 15, of the year following the date the special consent was granted.

(c) All requests for special consent investments shall be clearly labeled as such and shall contain the following information: name and NAIC code number of the insurer requesting the special consent; nature and amount of the proposed investment; requested dates of approval and expiration; reason for the special consent request; date of submission for approval; and information regarding

any previous special consents granted to the insurer for the same or nearly the same investments. All filings shall be submitted electronically to http://www.floir.com/iportal.

Rulemaking Authority 624.308 FS. Law Implemented 624.307(1), 624.424, 625.331 FS. History–New 6-15-92, Formerly 4-138.021, Amended 7-30-17.

69O-138.024 Agents' Balances in the Course of Collection; Calculation of 90 Days Past Due.

(1) This rule implements the provisions of section 625.012(5), F.S., and applies to all authorized insurers as defined in section 624.09, F.S.

(2) All agents' balances shall be aged on a separate policy by policy basis.

(3) For purposes of determining the admissibility as an asset of agents' balances, the policy inception date, defined as the time when the insurance thereunder takes effect, is the first day of the 90 days in which the agents' balances must be collected or be considered past due.

(4) Any agents' balance in excess of 90 days shall not be reflected as an admitted asset on the company's financial statement.

Rulemaking Authority 624.308 FS. Law Implemented 624.307(1), 625.012(5) FS. History–New 6-15-92, Formerly 4-138.024.

69O-138.031 Financial Requirements for Assessable Mutual Insurers.

(1) Purpose and Scope. This rule sets forth office policy and legal interpretation concerning applicants for licensure as an assessable mutual insurer and licensed assessable mutual insurers operating under part II of chapter 628, F.S.

(2) Definitions.

(a) "Office" means the Office of Insurance Regulation.

(b) "Applicant" and "application" refer to the application of an entity applying for a certificate of authority as an assessable mutual insurer.

(3) Specification of Maximum Contingent Liability in Articles of Incorporation; Procedures.

(a) As required by the reference in section 628.6011(1), F.S., to "part I" of chapter 628, F.S., the articles of incorporation of an entity applying for a certificate of authority as an assessable mutual shall specify the maximum contingent assessment liability of its members, in accordance with section 628.081(3)(e), F.S.

(b) The office will review the maximum contingent liability specified in the articles of incorporation. The office shall reject an application for a certificate of authority if the office finds that the maximum contingent liability so specified is inadequate, pursuant to the procedures established in this rule.

(c) It is office policy that the maximum contingent liability of members shall generally be set at a factor of ten times annual premium, pursuant to section 628.081(3)(e), F.S., unless the applicant or mutual insurer demonstrates that special conditions or provisions exist or have been made which justify a lower maximum contingent liability. Any such conditions or provisions which an insurer contends justifies a lower maximum contingent liability shall relate to the financial strength of the assessable mutual insurer. The office will consider any factors presented as justification which relate to the entity's financial strength. The office will consider the factors in subparagraphs (3)(c)1. and 2., below, if included by the applicant as part of its demonstration and will base its determination on whether those factors, together with any other special conditions or provisions presented by the entity which relate to its financial strength provide the same degree of financial strength as setting the maximum contingent liability at ten times annual premium.

1. Extra contributed capital above the minimum required capital; or

2. A reinsurance program with admitted or approved reinsurers, of unusual strength and scope. For purposes of this subparagraph, "unusual strength and scope" means a reinsurance program consisting of aggregate excess of loss reinsurance, equivalent to that required under section 624.469, F.S., and is the minimum program which the office will consider to merit any decrease in the maximum contingent liability.

(d) In particular cases there may exist other factors, which factors may offset the positive effect of the conditions or provisions specified in this subsection, so that no decrease in maximum contingent liability is merited notwithstanding the existence of the special conditions or provisions. These other factors are necessarily so fact-specific to particular situations that they cannot be enumerated here.

(4) Modification of Reinsurance Program After Issuance of a Certificate of Authority. Once a certificate of authority has been issued to an assessable mutual insurer, wherein the assessable mutual insurer was authorized by the office to use a maximum

contingent liability less than ten times annual premium in reliance in whole or in part on its description to the office of its proposed reinsurance program, as provided for in paragraph (3)(c), above, that assessable mutual insurer shall not modify its reinsurance program in such a way as to decrease or lessen the reinsurance levels or protection as same was described to the office in the application for certificate of authority, without the written approval of the office. Insurers who are in doubt as to whether a proposed change to their reinsurance program would be viewed by the office as decreasing or lessening the reinsurance levels or protection, shall seek written guidance from the office.

(5) Subsequent Increase to Maximum Contingent Liability.

(a) Subsequent to receiving a certificate of authority, the office shall require the maximum contingent liability of a assessable mutual insurer to be changed, on a prospective basis, if the office determines that the financial condition of the assessable mutual insurer has changed to such an extent that such an increase is required for the protection of claimants and insureds.

(b) In determining whether such an increase is required, the office shall consider:

1. Any change in the assessable mutual insurer's reinsurance program.

2. Adverse operating results.

3. Any similar deterioration of financial position which endangers the insurer's policyholders, its overall financial condition, or its solvency.

(c) The increased maximum contingent liability shall apply only to policies entered into or renewed, and deficits arising, after the higher liability takes effect.

(6) Meaning of Maximum Contingent Liability.

(a) The specification of a maximum contingent liability does not mean that the amount so specified is the maximum amount a member may be assessed and required to pay in any one year, if the assessment is due to deficits arising in multiple years. An assessable mutual insurer may in the same assessment levy assessment for deficits arising in multiple years, and the maximum contingent liability limit is applied separately to each year in which a deficit occurred.

Example. An assessable mutual insurer incurs operating deficits in 1993, 1994, and 1995. Assume that at all times relevant the maximum contingent liability was three times annual premium paid. Also assume for the sake of the example that the deficit in each year was equal to three times premium paid that year. The assessable mutual insurer may levy, and a member may be liable to pay, an assessment in 1995, which assessment may be three times premiums paid in 1993 plus three times premium paid in 1994 plus three times annual premiums paid in 1995.

(b) A member may be assessed for a deficit arising in a particular year only to the extent of premiums paid by that member in that year.

Example. An assessable mutual insurer incurs operating deficits in 1994 and 1995. Assume that at all times relevant the maximum contingent liability was three times annual premium paid. Also assume for the sake of the example that the deficit arising in 1994 would take an assessment of 1.5 times annual premiums paid in that year; and that the deficit arising in 1995 would take an assessment of five times annual premium paid in 1995. The assessable mutual insurer may levy an assessment in 1995 of 1.5 times premiums paid in 1994 plus three times premium paid in 1995.

(7) Liability of Members After Terminating Membership. A member remains liable for assessment for deficits arising while that member was a member even after that member terminates membership.

Rulemaking Authority 624.308(1), 628.535 FS. Law Implemented 624.307(1), 624.469, 624.472, 628.081(3)(e), 628.6011, 628.6012, 628.6016 FS. History–New 10-21-93, Formerly 4-138.031.

69O-138.040 Purpose.

The purpose of this part is to prescribe:

(1) Requirements for statements of actuarial opinion that are to be submitted in accordance with subsection (3) of the Standard Valuation Law, and for supporting memoranda;

(2) Rules applicable to the appointment of an appointed actuary; and,

(3) Guidance as to the meaning of "adequacy of reserves."

Rulemaking Authority 624.308(1), 625.121(3)(a) FS. Law Implemented 624.307(1), 625.121(3), 632.627 FS. History–New 5-18-93, Amended 1-23-03, Formerly 4-138.040.

69O-138.041 Scope.

(1) This part shall apply to all life and health insurance companies and fraternal benefit societies doing business in this state, and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in this state. This part shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Office shall have the authority to specify specific methods of actuarial analysis and actuarial assumptions when these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

(2) This rule shall be applicable to all annual statements filed with the Office. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with rule 69O-138.046, F.A.C., of this part, and a memorandum in support thereof in accordance with rule 69O-138.047, F.A.C., of this part, shall be required each year. All filings shall be submitted electronically to http://www.floir.com/iportal.

Rulemaking Authority 624.308(1), 625.121(3)(a) FS. Law Implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History–New 5-18-93, Amended 2-16-94, 1-23-03, Formerly 4-138.041, Amended 7-30-17.

69O-138.042 Definitions.

(1) "Actuarial Opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with rule 69O-138.046, F.A.C., and with applicable actuarial standards of practice.

(2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual Statement" means that statement required by section 624.424, F.S., to be filed by the company with the Office annually.

(4) An "Appointed Actuary" is a qualified actuary who is appointed or retained, either directly by or by the authority of the board of directors through an executive officer of the company other than an officer who is the qualified actuary, to prepare the statement of actuarial opinion as required by subsection (3), of the Standard Valuation Law.

(5) "Asset Adequacy Analysis" means an analysis that meets the standards and other requirements referred to in subsection 69O-138.043(3), F.A.C., of this part.

(6) "Company" means a life insurance company, fraternal benefit society or reinsurer subject to the provisions of this part.

(7) "Office" means the Office of Insurance Regulation.

(8) "NAIC" means the National Association of Insurance Commissioners.

(9) "NAIC Actuarial Opinion and Memorandum Regulation" means this part.

(10) "Qualified Actuary" means any individual who meets the criteria specified in paragraph 69O-138.043(2)(b), F.A.C.

(11) "Standard Valuation Law" means that defined in section 625.121, F.S.

Rulemaking Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS. History–New 5-18-93, Amended 1-23-03, Formerly 4-138.042.

69O-138.043 General Requirements.

(1) Submission of Statement of Actuarial Opinion.

(a) Included on or attached to Page 1 of the annual statement for each year, shall be the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with rule 69O-138.046, F.A.C.

(b) Upon written request by the company, the Office will, for good cause, grant an extension of the date for submission of the statement of actuarial opinion. Good cause includes the occurrence of an event or circumstance beyond the control of the company, which prevents compliance and could not be reasonably remedied or foreseen by the company.

(2) Qualified Actuary.

(a) The company shall give the Office, prior to or concurrent with the filing of the first annual statement to which this rule applies, written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in this paragraph (2)(b), below.

(b) Any appointed actuary will be considered to be a "Qualified Actuary" if he or she:

1. Is a member in good standing of the American Academy of Actuaries;

2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements;

3. Is familiar with the valuation requirements applicable to life and health insurance companies;

4. Has not been found by the Office (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have:

a. Violated any provision of, or any obligation imposed by, the Insurance Code or other state or federal law relating to insurance in the course of his or her dealings as a qualified actuary;

b. Been found guilty of or pleaded guilty or nolo contendere to fraudulent or dishonest practices without regard to whether a judgment of conviction has been entered by the court having jurisdiction in such case;

c. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary;

d. Submitted to the Office during the past 5 years, pursuant to this part, an actuarial opinion or memorandum that the Office rejected because it did not meet the provisions of this part including standards set by the Actuarial Standards Board; or

e. Resigned or been removed as an appointed actuary within the past 5 years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and,

5. Has not failed to notify the Office of any action taken by any insurance supervisory official of any other state similar to that under subparagraph (2)(b)4., above.

(c) Once notice is furnished, no further notice is required with respect to this person provided the company shall give the Office written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in paragraph 69O-138.043(2)(b), F.A.C. Notice must be prior to or concurrent with the termination of the actuary's appointment or retention, or upon discovery that the actuary no longer meets the requirements set forth in paragraph 69O-138.043(2)(b), F.A.C. All filings shall be submitted electronically to http://www.floir.com/iportal.

(d) If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

(3) Standards for Asset Adequacy Analysis. The asset adequacy analysis required by this part shall:

(a) Conform to the Standards of Practice as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this part, which standards are to form the basis of the statement of actuarial opinion in accordance with rule 69O-138.046, F.A.C., of this part; and,

(b) Be based on methods of analysis deemed appropriate for such purposes by the Actuarial Standards Board.

(4) Liabilities to be Covered.

(a) Under authority of subsection (3), of the Standard Valuation Law, section 625.121, F.S., the statement of actuarial opinion shall apply to all in-force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits 5, 6 and 7, and claim liabilities in Exhibit 8, Part I of the Annual Statement, and equivalent items in the separate account statement or statements.

(b) If the appointed actuary, as the result of asset adequacy analysis, determines that a reserve shall be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in subsections 7, 11, 12, and 14 of the Standard Valuation Law, the company shall establish the additional reserve.

(c) Additional reserves established under paragraph (4)(b), above, and deemed not necessary in subsequent years may be released. Any amounts released shall be disclosed in the actuarial opinion for the applicable year. The release of such reserves will not be deemed an adoption of a lower standard of valuation.

Rulemaking Authority 624.308(1), 625.121(3)(a) FS. Law Implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History–New 5-18-93, Amended 2-16-94, 1-23-03, Formerly 4-138.043, Amended 7-30-17.

69O-138.046 Statement of Actuarial Opinion Based on an Asset Adequacy Analysis.

(1) General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) A paragraph identifying the appointed actuary and his or her qualifications (see paragraph (2)(a), below);

(b) A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis (see paragraph (2)(b), below), and identifying the reserves and related actuarial items covered

by the opinion which have not been so analyzed;

(c) A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see paragraph (2)(c), below), supported by a statement of each such expert in the form prescribed by subsection 69O-138.046(5), F.A.C.; and,

(d) An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see paragraph (2)(d), below).

(e) One or more additional paragraphs will be needed in individual company cases as follows:

1. If the appointed actuary considers it necessary to state a qualification of his or her opinion;

2. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;

3. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release;

4. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(2) Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion. Language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language that clearly expresses his or her professional judgment, and retains all pertinent aspects of the language provided in this section.

(a) The opening paragraph shall indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

1. For a company actuary, the opening paragraph of the actuarial opinion shall include a statement such as follows:

"I, (name), am (title) of (insurance company name) and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Office of Insurance Regulation dated (insert date). I meet the Academy qualification standards for rendering the opinion, and am familiar with the valuation requirements applicable to life and health insurance companies."

2. For a consulting actuary, the opening paragraph shall contain a sentence such as:

"I, (name), a member of the American Academy of Actuaries, am associated with the firm of (name of consulting firm). I have been appointed by, or by the authority of, the Board of Directors of (name of company) to render this opinion as stated in the letter to the Office of Insurance Regulation dated (insert date). I meet the Academy qualification standards for rendering the opinion, and am familiar with the valuation requirements applicable to life and health insurance companies."

(b) The scope paragraph shall include a statement such as:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 20__. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (2) Note (i) below	Analysis Method Note (ii) below	Other Amount (3)	Total Amount (4) (1)+(2)+(3)
Exhibit 5					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability – Active					
F Disability – Disabled					

G Miscellaneous					
Total (Exhibit 5 Item 1, Page 3)					
Exhibit 6					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Exhibit 7					
Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 7 (Column 1, Line 14)					
Exhibit 8 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 8, Part 1					
Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					
IMR (General Account, Page __ Line __) (Separate Accounts, Page __ Line __)					
AVR (Page __ Line __)	Note (iii) below				
Net Deferred and Uncollected Premium					

Note (i): The additional actuarial reserves are the reserves established under paragraph (b), of subsection 69O-138.043(4), F.A.C.

Note (ii): The appointed actuary shall indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in subsection 69O-138.043(3), F.A.C., by means of symbols which shall be defined in footnotes to the table.

Note (iii): Allocated amount of Asset Valuation Reserve (AVR).

(c)1.a. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as:

"I have relied on [name], [(title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios" or "certain critical aspects of the analysis performed in conjunction with forming my opinion"], as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

b. Such a statement of reliance on other experts shall be accompanied by a statement by each of such experts of the form prescribed by subsection 69O-138.046(5), F.A.C.

2. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall include a statement such as:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

3.a. If the appointed actuary has not examined the underlying records, but has relied upon data; (e.g., listings and summaries of policies in force or asset records) prepared by the company, the reliance paragraph shall include a statement such as:

"In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company's current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary."

b. Such a section shall be accompanied by a statement by each person relied upon of the form prescribed by subsection 69O-138.046(5), F.A.C.

(d) The opinion paragraph shall include a statement such as:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:"

1. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

2. Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

3. Meet the requirements of the Insurance Law and regulation of the state of (state of domicile) and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and,

5. Include provision for all actuarial reserves and related statement items which ought to be established.

"The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

"The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board which form the basis of this statement of opinion.

"To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which shall be considered in reviewing this opinion."

or

"The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion shall be considered in reviewing this opinion: (describe the change or changes.)

Note: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion shall be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

_____

Signature of Appointed Actuary

_____

Address of Appointed Actuary

_____

Telephone Number of Appointed Actuary"

_____

Date

(3) Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this rule 69O-138.046, F.A.C.

(4) Adverse Opinions. If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement shall follow the scope paragraph and precede the opinion paragraph.

(5) Reliance on Information Furnished by Other Persons.

(a) If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance.

(b) The persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which

the person is providing information and a statement as to the accuracy, completeness, or reasonableness, as applicable, of the items. The certification shall include the signature, title, company, address, and telephone number of the person rendering the certification, as well as the date on which it is signed.

Rulemaking Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS. History–New 5-18-93, Amended 1-23-03, Formerly 4-138.046.

69O-138.047 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.

(1) General.

(a)1. In accordance with subsection (3), of the Standard Valuation Law, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves.

2. The memorandum shall be made available for examination by the Office upon its request. Any memorandum in support of the opinion, and any other material provided by the company to the Office in connection therewith, is confidential and exempt from the provisions of section 119.07(1), F.S., as provided in section 625.121(3)(a)10., F.S.

(b) In preparing the memorandum, the appointed actuary may include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of subsection 69O-138.043(2), F.A.C., with respect to the areas covered in the memoranda, and shall so state in their memoranda.

(c) If the Office requests a memorandum and no such memorandum exists, or if the Office finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this part, the Office may designate a qualified actuary to review the opinion and prepare for review the required supporting memorandum. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Office.

(d)1. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company.

2. The work papers and documentation of the reviewing actuary shall be retained by the Office.

3. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Office and kept confidential to the same extent prescribed by law with respect to other material provided by the company to the Office pursuant to the statute governing this part.

4. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this part for the current year or any one of the preceding 3 years.

(e) In accordance with section 625.121(3), F.S., the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection 69O-138.047(3), F.A.C.

1. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required.

2. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Details of the Memorandum Section Documenting Asset Adequacy Analysis. When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in subsection 69O-138.043(3), F.A.C., and any additional standards under this part. It shall specify:

(a) For reserves:

1. Product descriptions, including market description, underwriting, and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;

2. Source of liability in force;

3. Reserve method and basis;

4. Investment reserves;

5. Reinsurance arrangements;

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis.

7.a. Documentation of assumptions to test reserves for the following:

(I) Lapse rates (both base and excess);

(II) Interest crediting rate strategy;

(III) Mortality;

(IV) Policyholder dividend strategy;

(V) Competitor or market interest rate;

(VI) Annuitization rates;

(VII) Commissions and expenses; and,

(VIII) Morbidity.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(b) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;

2. Investment and disinvestment assumptions;

3. Source of asset data;

4. Asset valuation bases; and,

5.a. Documentation of assumptions made for:

(I) Default costs;

(II) Bond call function;

(III) Mortgage prepayment function;

(IV) Determining market value for assets sold due to disinvestment strategy; and,

(V) Determining yield on assets acquired through the investment strategy.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(c) For the analysis basis:

1. Methodology;

2. Rationale for inclusion/exclusion of different blocks of business, and how pertinent risks were analyzed;

3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);

4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and,

5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(d) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

(e) Summary of Results; and,

(f) Conclusion(s).

(3) Details of the Regulatory Asset Adequacy Issues Summary.

(a) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios,

a. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values.

b. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary. For Example, the impact of the

insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and,

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(4) Conformity to Standards of Practice. The memorandum shall include a statement:

"Actuarial methods, considerations, and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board which form the basis for this memorandum."

(5) Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

(a) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis.

1. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy.

2, Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

(b)1. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum.

2. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(6) Documentation. The appointed actuary shall retain on file for at least seven (7) years sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Rulemaking Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS. History–New 5-18-93, Amended 1-23-03, Formerly 4-138.047, Amended 11-2-11.