

§781. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 249, §2 (NEW).]

1. Aggregate limit. "Aggregate limit" means the maximum sum payable to the ceding insurer under a special purpose reinsurance vehicle contract.

[PL 2003, c. 249, §2 (NEW).]

2. Catastrophe excess of loss property reinsurance. "Catastrophe excess of loss property reinsurance" means excess of loss reinsurance for a catastrophe layer of a reinsurance program, written on either a per occurrence or aggregate basis.

[PL 2003, c. 249, §2 (NEW).]

3. Catastrophe life or health reinsurance. "Catastrophe life or health reinsurance" means reinsurance of life, health or annuity products that transfers mortality, morbidity, survival or other related risks in excess of existing proportional or nonproportional automatic and facultative treaties newly placed or in force on the same risks.

[PL 2003, c. 249, §2 (NEW).]

4. Ceding insurer. "Ceding insurer" means an insurer that enters into a special purpose reinsurance vehicle contract with a special purpose reinsurance vehicle and includes a reinsurer retroceding assumed reinsurance to a special purpose reinsurance vehicle. A group of affiliated insurers under common control entering into a special purpose reinsurance vehicle contract on a coordinated basis is considered a single ceding insurer.

[PL 2003, c. 249, §2 (NEW).]

5. Control. "Control," including the terms "controlling," "controlled by" and "under common control," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist. Notwithstanding this subsection, for the purposes of this subchapter, the fact that a special purpose reinsurance vehicle exclusively provides reinsurance to a ceding insurer under a special purpose reinsurance vehicle contract is not by itself sufficient grounds for a finding that the reinsurance vehicle or the special purpose reinsurance vehicle organizer or owner is controlled by or under common control with the ceding insurer.

[PL 2003, c. 249, §2 (NEW).]

6. Fair value. "Fair value" means:

A. As to cash, the amount of cash; and [PL 2003, c. 249, §2 (NEW).]

B. As to an asset other than cash:

(1) The amount at which that asset could be bought or sold in a current transaction between arms-length, willing parties;

(2) The quoted market price for the asset in active markets must be used if available; and

(3) If quoted market prices are not available, a value determined using the best information available considering values of like assets and other valuation methods, such as present value of future cash flows, historical value of the same or similar assets or comparison to values of other asset classes the value of which have been historically related to the subject asset. [PL 2003, c. 249, §2 (NEW).]

[PL 2003, c. 249, §2 (NEW).]

7. Fully funded. "Fully funded" means, with respect to a special purpose reinsurance vehicle contract, that the fair value of the assets under the control of the ceding insurer or held in trust for the benefit of the ceding insurer under the special purpose reinsurance vehicle contract on the date on which the special purpose reinsurance vehicle contract is effected, equals or exceeds the aggregate limit as defined in subsection 1.

[PL 2007, c. 386, §2 (AMD).]

7-A. Impairment. "Impairment" or "impaired" means, with respect to a special purpose reinsurance vehicle or any of its protected cells, that either:

A. The available capital of the special purpose reinsurance vehicle or protected cell has fallen below the applicable initial capital requirement without the approval of the superintendent; or [PL 2007, c. 386, §3 (NEW).]

B. The fair value of the assets under the control of the ceding insurer or held in trust for the benefit of the ceding insurer under a special purpose reinsurance vehicle contract is less than the aggregate limit remaining under the contract as of the time the determination is made. [PL 2007, c. 386, §3 (NEW).]

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8. Indemnity trigger. "Indemnity trigger" means a transaction term by which the special purpose reinsurance vehicle's obligation to pay the ceding insurer for losses covered by a special purpose reinsurance vehicle contract is triggered by the ceding insurer incurring a specified level of losses.

[PL 2003, c. 249, §2 (NEW).]

9. Insolvency. "Insolvency" or "insolvent" means that the special purpose reinsurance vehicle or one or more of its protected cells is unable to pay its obligations when they are due unless the obligations are the subject of a bona fide dispute.

[PL 2007, c. 386, §4 (AMD).]

10. Nonindemnity trigger. "Nonindemnity trigger" means a transaction term by which the special purpose reinsurance vehicle's obligation to pay the ceding insurer under a special purpose reinsurance vehicle contract arises from the occurrence or existence of some event or condition other than the ceding insurer incurring a specified level of losses under its insurance or reinsurance contracts.

[PL 2003, c. 249, §2 (NEW).]

11. Permitted investments. "Permitted investments" means those investments that meet the qualifications under section 795.

[PL 2003, c. 249, §2 (NEW).]

11-A. Protected cell. "Protected cell" means a separate account established and maintained by a special purpose reinsurance vehicle for one special purpose reinsurance vehicle contract and the accompanying insurance securitization with a ceding insurer as further provided for in section 784-A.

[PL 2007, c. 386, §5 (NEW).]

12. Qualified United States financial institution. "Qualified United States financial institution" means for purposes of meeting the requirements of a trustee as specified in section 784 a financial institution that is eligible to act as a fiduciary of a trust and:

A. Is organized or, in the case of a United States branch or agency office of a foreign banking organization, is licensed under the laws of the United States or any state; and [PL 2003, c. 249, §2 (NEW).]

B. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies. [PL 2003, c. 249, §2 (NEW).]

[PL 2003, c. 249, §2 (NEW).]

13. Reinsurance vehicle. "Reinsurance vehicle" means a special purpose reinsurance vehicle.

[PL 2003, c. 249, §2 (NEW).]

14. Special purpose reinsurance vehicle. "Special purpose reinsurance vehicle" means an entity domiciled in and organized under the laws of this State that has received a limited certificate of authority from the superintendent under this subchapter exclusively for the limited purpose of entering into and effectuating special purpose reinsurance vehicle insurance securitizations, special purpose reinsurance vehicle contracts and other related transactions permitted by this subchapter.

[PL 2003, c. 249, §2 (NEW).]

15. Special purpose reinsurance vehicle contract; contract. "Special purpose reinsurance vehicle contract" or "contract" means a contract between the special purpose reinsurance vehicle and the ceding insurer pursuant to which the special purpose reinsurance vehicle agrees to pay the ceding insurer an agreed amount upon the occurrence of a triggering event.

[PL 2003, c. 249, §2 (NEW).]

16. Special purpose reinsurance vehicle insurance securitization; insurance securitization. "Special purpose reinsurance vehicle insurance securitization" or "insurance securitization" means a package of related risk transfer instruments, capital market offerings and facilitating administrative agreements by which proceeds are obtained by a special purpose reinsurance vehicle directly or indirectly through the issuance of securities and are held in trust or under the control of the ceding insurer pursuant to the requirements of this subchapter to secure the obligations of the special purpose reinsurance vehicle under one or more special purpose reinsurance vehicle contracts with one or more ceding insurers, when investment risk to the holders of these securities is contingent upon the obligations of the special purpose reinsurance vehicle to the ceding insurer or ceding insurers under the special purpose reinsurance vehicle contract in accordance with the transaction terms.

[PL 2007, c. 386, §6 (AMD).]

17. Special purpose reinsurance vehicle organizer; organizer. "Special purpose reinsurance vehicle organizer" or "organizer" means one or more persons that have organized or intend to organize a special purpose reinsurance vehicle under authority obtained as specified in this subchapter.

[PL 2003, c. 249, §2 (NEW).]

18. Special purpose reinsurance vehicle securities; securities. "Special purpose reinsurance vehicle securities" or "securities" means the securities issued by a special purpose reinsurance vehicle.

[PL 2003, c. 249, §2 (NEW).]

19. Triggering event. "Triggering event" means an event or condition that if and when it occurs or exists obligates the special purpose reinsurance vehicle to make a payment to the ceding insurer under the provisions of a special purpose reinsurance vehicle contract.

[PL 2003, c. 249, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 249, §2 (NEW). PL 2007, c. 386, §§2-6 (AMD).

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