



Index A No. 10.1

REINSURANCE ON AN ASSUMPTION BASIS (“ASSUMPTION REINSURANCE”)

Legislative Authorities

- Sections 254 and 587.1 of the [Insurance Companies Act](#) (“ICA”)¹

Assumption Reinsurance as Compared to Indemnity Reinsurance and Transfers of Policies

A federally regulated insurer that seeks to cause itself to be assumption reinsured against all or any portion of the risks undertaken under its policies² is subject to the Legislative Authorities above. Since the coming into force of the April 2007 revisions to the ICA, however, all forms of indemnity reinsurance, as well as legal transfers of policies (as described below), are no longer subject to these Legislative Authorities. The key attributes of assumption reinsurance, indemnity reinsurance and legal transfers of policies are discussed briefly below.

*Assumption Reinsurance*³

Where an insurer causes itself to be assumption reinsured against all or any portion of the risks undertaken under its policies, the reinsurer agrees to assume the discharge of the obligations that the insurer (or “cedant”) owes under these policies, including the discharge of the financial obligations and the policy administration functions. As a result, the reinsurer becomes directly liable to the holders of these policies. These holders are requested to pay their premiums to the reinsurer and to look to the reinsurer for the on-going servicing of policies and the payment of claims made under them. Assumption reinsurance is used where it is not commercially reasonable to effect a legal transfer of policies, as described below. After an assumption reinsurance transaction takes effect, the cedant retains liability with regard to each policy that is the subject of the transaction until some point where this liability ceases either (a) in accordance with the policy’s terms and conditions or (b) circumstances permitting, by statute or otherwise by operation of law.

¹ See item 1.1 of the Administrative Guidance below for information on the contexts in which approvals under these Legislative Authorities are generally granted.

² Where the federally regulated insurer is a foreign company, the reference to “policies” are to those with regard to its insurance business in Canada.

³ See item 2.1 of the Administrative Guidance below for additional information regarding assumption reinsurance generally.



Indemnity Reinsurance

In contrast to assumption reinsurance, where an insurer causes itself to be indemnity reinsured, the reinsurer agrees to indemnify the cedant in respect of the payment of claims made under the policies that are the subject of the transaction. There is generally no change to the party to which the premiums are requested to be paid or to the party that performs the policy administration functions (i.e., an indemnity reinsurance transaction generally occurs unbeknownst to the holders of the cedant's policies).

Legal Transfers of Policies

Where an insurer seeks to transfer policies to another insurer, it may do so with policyholder consent or, for example, with court and/or regulatory approval in a jurisdiction that permits transfers of policies with such approval (e.g., the United Kingdom, Hong Kong and Bermuda). In such a case, the transferee insurer replaces the transferring insurer as a party to the policies that are the subject of the transaction, and the latter is fully discharged from all of the obligations under these policies, in accordance with the terms and conditions of the transfer instrument.

The remainder of this document addresses assumption reinsurance-related approvals sought under the Legislative Authorities above.

Timing of Submission of Information

The sequence of information requirements in connection with an assumption reinsurance-related approval is as follows:

1. draft application information requirements (i.e., information required to be submitted to OSFI prior to the submission of a formal application);
2. formal application information requirements (i.e., information required to be submitted to OSFI in support of the formal application); and
3. post-approval information requirements (i.e., information required to be submitted to OSFI after the approval has been granted).

The information requirements that follow are set out accordingly.

Foreign Companies

A reference in this document to a “foreign company” is to one as defined in subsection 2(1) of the ICA. Where the applicant is a foreign company, a reference in this document to “policies” or “policyholders” are to those with regard to its insurance business in Canada.

INFORMATION REQUIREMENTS

Section 1: Draft Application Information Requirements

The information requirements contained in Section 1 are divided as follows:

- 1.1 Applicant-focused information requirements
 - 1.1.1 Life company or fraternal benefit society applicant – initial information
 - 1.1.2 All applicants
 - 1.1.3 Exit of an applicant’s line of business
 - 1.1.4 All or substantially all of a Canadian applicant’s risks
 - 1.1.5 Life company or fraternal benefit society applicant – post independent actuary engagement
- 1.2 Reinsurer-focused information requirements
 - 1.2.1 Federally regulated reinsurer
 - 1.2.2 Non-federally regulated reinsurer
 - 1.2.3 Related party reinsurer
- 1.3 Policy-focused information requirements
 - 1.3.1 Voting policies
 - 1.3.2 Distribution policies or adjustable policies

1.1 Applicant-focused Information Requirements

1.1.1. Life Company or Fraternal Benefit Society Applicant – Initial Information

1. Where the applicant is a Canadian or foreign life company or fraternal benefit society, prior to engaging an independent actuary (“IA”) who will prepare the report regarding the proposed assumption reinsurance transaction (“transaction”), the applicant is generally expected to provide initial information as follows:
 - (a) the name of the proposed IA; and
 - (b) the rationale for proposing this person, including a summary of the due diligence performed by the applicant to confirm the person’s independence.⁴

1.1.2. All Applicants

⁴ This is for the purpose of seeking OSFI’s permission to engage the IA. See OSFI’s [Guideline E-14: Role of the Independent Actuary](#) for more information.

All applicants are generally expected to provide:

2. the rationale for the transaction from the perspective of the applicant, including details regarding the benefits that are expected to accrue to the applicant;
3. details regarding the due diligence that the applicant has carried out with regard to the entity that proposes to assumption reinsure the risks (the “Reinsurer”) to assess the Reinsurer’s suitability,⁵ and the views of the applicant regarding the results of the due diligence;
4. a description of the transaction, including:
 - (a) a description of the nature of the applicant’s affiliation with the Reinsurer, if any,
 - (b) the types of policies that are the subject of the transaction (“Policies”), including whether Policies are in run-off or otherwise part of a closed block,
 - (c) the amount of actuarial and other liabilities, whether actual or contingent, arising from the terms and conditions of the Policies (“Policy Liabilities”), and the percentage this amount represents with regard to the applicant’s total actuarial and other liabilities, whether actual or contingent, arising from the terms and conditions of all of its policies,
 - (d) the amount of annual gross written premiums under the Policies, and the percentage this amount represents with regard to the applicant’s total annual gross written premiums under all of its policies,
 - (e) whether any of the Policies:
 - (i) entitle their holders to vote at meetings of the applicant (“Voting Policies”) or participate in the applicant’s profit distributions (“Distribution Policies”),
 - (ii) entitle the applicant to change the premium, the amount of insurance or the surrender value (“Adjustable Policies”), or
 - (iii) confer upon their holders ownership interests in the applicant (“Ownership Policies”)⁶,
 - (f) whether any of the Policies contain “non-transfer” or “non-assignment” clauses,⁷
 - (g) where, under the agreement that will effect the transaction,
 - (i) the Reinsurer will assume actual or contingent liabilities of the applicant that are not Policy Liabilities (“Other Liabilities”), such as tax liabilities, the amount of Other Liabilities, and/or
 - (ii) the applicant will transfer assets that are not with regard to the Policy Liabilities or any Other Liabilities that the Reinsurer will assume, a

⁵ See item 3.1 of the Administrative Guidance below for more information.

⁶ See item 7.2 of the Administrative Guidance below for more information regarding Ownership Policies.

⁷ See item 2.2 of the Administrative Guidance below for more information.



description of those assets and the consideration for them⁸,
and

- (h) a breakdown of the amount of consideration to be paid for each of the Policy Liabilities and any Other Liabilities that the Reinsurer will assume, including a description of the type of related assets that will be transferred to the Reinsurer;
- 5. the draft version of the assumption reinsurance agreement, including the certificate of assumption, that the applicant proposes to make available for inspection in accordance with subsection 254(5) or 587.1(7) of the ICA;⁹
- 6. the draft version of the notice described in subsection 254(3) or 587.1(4) of the ICA (“Notice”) that the applicant proposes to publish;¹⁰
- 7. details regarding the level of internal approval required with regard to the transaction (e.g., board of directors, board committee or senior management), based on the applicant’s policies, as well as evidence that the transaction was approved at the appropriate level (e.g., relevant excerpts from the minutes of the meeting during which the transaction was approved);¹¹
- 8. where the applicant is a foreign company, details regarding whether the applicant requires approval from its home regulator to enter into the transaction or must notify its home regulator about the transaction, and where any of these requirements apply, information regarding the status of meeting them; and
- 9. an analysis of the effect the transaction will have on the financial position and risk profile of the applicant,¹² including:
 - (a) a comparative *pro forma* balance sheet (immediately pre- and post-transaction) including relevant assumptions,
 - (b) where the transaction does not involve all of the applicant’s policies,
 - (i) a comparative *pro forma* capital position (immediately pre- and post-transaction) that confirms compliance with the applicant’s internal target¹³ and with OSFI’s requirements applicable to the applicant, together with

⁸ For example, under the agreement that will effect the transaction, the applicant may sell real estate and office supplies to the Reinsurer.

⁹ See item 2.3 of the Administrative Guidance below for more information regarding the assumption reinsurance agreement. For clarity, OSFI acknowledges that the draft version of the assumption agreement submitted to OSFI may form part of a broader “master agreement” that has already been executed.

¹⁰ See item 4.1 of the Administrative Guidance below for more information.

¹¹ Information in support of this requirement does not need to be provided where both (a) the applicant is a Canadian company or a Canadian fraternal benefit society and (b) the transaction involves all or substantially all of the risks undertaken under its policies. Refer to information requirements under section 1.1.4. below instead.

¹² Where the applicant is a foreign company, this information requirement is with regard to the applicant’s insurance business in Canada, and references to “capital” in this information requirement are to be substituted with the term that the circumstances require.

¹³ Where the applicant’s internal target will be revised as a result of the transaction, the reference to “internal target” above, in the immediately post-transaction context, is to the revised target.

relevant assumptions and, if the transaction is material to the applicant, a breakdown of:

- (A) in the case of a life insurance company or fraternal benefit society, all elements used to calculate the Minimum Continuing Capital and Surplus Requirements (or the Test of Adequacy of Assets in Canada and Margin Requirements in the case of a foreign company), or
 - (B) in the case of a property and casualty insurance company, all elements of the Minimum Capital Test (or the Branch Adequacy of Assets Test in the case of a foreign company) or the Mortgage Insurer Capital Adequacy Test, as applicable, and
- (ii) a confirmation that, following the transaction, the applicant will be in compliance with its relevant corporate policies including those related to liquidity, capital management, risk management and investments, and
- (c) where the transaction both (a) does not involve all of the applicant's policies and (b) is material to the applicant or will present a material change to the business strategy of the applicant,
- (i) a revised scenario stress testing report with regard to the applicant (e.g., Financial Condition Testing ("FCT")),
 - (ii) a description of any changes the applicant proposes to make to its corporate policies and procedures, including its reinsurance risk management policy (where applicable),
 - (iii) where the applicant has a recovery plan, a description of the material revisions that it will make to the plan as a result of the transaction, including the timelines outlining when the revisions will be made,
 - (iv) where applicable, a revised business plan for the applicant, and
 - (v) three years of financial projections with regard to the applicant, including income statement, balance sheet, capital ratios and key assumptions.¹⁴

1.1.3. Exit of an Applicant's Line of Business

Where the applicant seeks to engage in the transaction with a view to exit a line of business,¹⁵ the applicant is generally expected to provide:

- 10. the rationale in support of its view that the Policies constitute a line of business; and
- 11. a confirmation that it has no intention of engaging in that line of business following the transaction.¹⁶

¹⁴ To the extent this item 9(c)(v) information is not already provided under item 9(c)(i) above.

¹⁵ See item 1.1(b) of the Administrative Guidance below for more information.

¹⁶ Where the applicant is a foreign company, this information requirement is with regard to the applicant's insurance business in Canada.

1.1.4. All or Substantially All of a Canadian Applicant's Risks

Where the applicant is a Canadian company or a Canadian fraternal benefit society, and the transaction involves all or substantially all¹⁷ of the risks undertaken under its policies, the applicant is generally expected to provide:

12. where applicable, a draft version of the information proposed to be sent, in the case of a company, to its policyholders entitled to vote or, in the case of a society, to its members (collectively, "Voting Policyholders") in connection with the meeting where the transaction will be voted upon (the "Voting Package");
13. where applicable, a copy of the Voting Package sent to Voting Policyholders, together with the date on which it was sent; and
14. a certified copy of the special resolution approving the transaction and, where applicable, a confirmation that the related meeting took place in accordance with the requirements of the ICA and the applicant's by-laws.

1.1.5. Life Company or Fraternal Benefit Society Applicant – Post IA Engagement

Where the applicant is a Canadian or foreign life company or fraternal benefit society, following the engagement by the applicant of an IA,¹⁸ the applicant is generally expected to provide or arrange for the IA to provide OSFI with:

15. a draft version of the IA report;
16. a draft version of the information to be sent to Policyholders (the "Information Package"). OSFI expects the Information Package to contain, among other things:
 - (a) a description of the rationale for the transaction,
 - (b) a description of the Reinsurer,
 - (c) a summary of the terms and conditions of the proposed assumption agreement,
 - (d) a summary of the IA report,
 - (e) the contents of the Notice,
 - (f) a reference to the regulatory approval(s) that will be sought by the applicant,
 - (g) where the transaction involves Voting, Distribution or Adjustable Policies, a description of how related rights and interests will be affected,
 - (h) a reference to the certificate of assumption that the Reinsurer will provide the Policyholders after the assumption agreement takes effect, and

¹⁷ For purposes of paragraph 254(2)(a) of the ICA, OSFI generally considers an applicant to cause itself to be assumption reinsured against substantially all of the risks undertaken under its policies where the percentage referred to in item 4(c) of these Information Requirements is 75% or more.

¹⁸ See OSFI's [Guideline E-14: Role of the Independent Actuary](#) for more information.

-
- (i) a description of how a Policyholder may contact the applicant in the event the Policyholder has questions or seeks additional information; and
17. a signed IA report (after OSFI is satisfied with the draft IA report).

1.2 Reinsurer-focused Information Requirements

1.2.1. Federally Regulated Reinsurer

Where the Reinsurer is a federally regulated entity (“FRE”), including a foreign company with regard to its insurance business in Canada, the applicant is generally expected to provide, or arrange for the Reinsurer to provide OSFI with:

- 18. the rationale for the transaction from the perspective of the Reinsurer, including details regarding the benefits that are expected to accrue to the Reinsurer;
- 19. details regarding the level of internal approval required with regard to the transaction (e.g., board of directors, board committee or senior management), based on the Reinsurer’s corporate policies and procedures, as well as evidence that the transaction was approved at the appropriate level (e.g., relevant excerpts from the minutes of the meeting during which the transaction was approved);
- 20. a confirmation that the risks to be assumed by the Reinsurer fall within provincial and territorial classes of insurance that the Reinsurer is authorized to underwrite;
- 21. where the Reinsurer is a foreign company, details regarding whether the Reinsurer requires approval from its home regulator to enter into the transaction or must notify its home regulator about the transaction, and where any of these requirements apply, information regarding the status of meeting them;
- 22. an analysis of the effect the transaction will have on the financial position and risk profile of the Reinsurer,¹⁹ including:
 - (a) a comparative *pro forma* balance sheet (immediately pre- and post- transaction) including relevant assumptions,
 - (b) a comparative *pro forma* capital position (immediately pre- and post-transaction) that confirms compliance with the Reinsurer’s internal target²⁰ and with OSFI’s requirements applicable to the Reinsurer, together with relevant assumptions and, if the transaction is material to the Reinsurer, a breakdown of:
 - (i) in the case of a life insurance company or fraternal benefit society, all elements used to calculate the Minimum Continuing Capital and Surplus Requirements (or the Test of Adequacy of Assets in Canada and Margin Requirements in the case of a foreign company), or

¹⁹ Where the Reinsurer is a foreign company, this information requirement is with regard to the Reinsurer’s insurance business in Canada, and references to “capital” in this information requirement are to be substituted with the term that the circumstances require.

²⁰ Where the Reinsurer’s internal target will be revised as a result of the transaction, the reference to “internal target” above, in the immediately post-transaction context, is to the revised target.

-
- (ii) in the case of a property and casualty insurance company, all elements of the Minimum Capital Test (or the Branch Adequacy of Assets Test in the case of a foreign company) or the Mortgage Insurer Capital Adequacy Test, as applicable,
 - (c) if the transaction is material to the Reinsurer or will present a material change to the business strategy of the Reinsurer:
 - (i) a revised scenario stress testing report with regard to the Reinsurer (e.g., DCAT),
 - (ii) an integration plan for the assumed business, including any changes the Reinsurer proposes to make to its corporate policies and procedures, including its reinsurance risk management policy (where applicable),
 - (iii) where the Reinsurer has a recovery plan, a description of the material revisions that it will make to the plan as a result of the transaction, including the timelines outlining when the revisions will be made,
 - (iv) where applicable, a revised business plan for the Reinsurer, and
 - (v) three years of financial projections with regard to the Reinsurer, including income statement, balance sheet, capital ratios and key assumptions,²¹ and
 - (d) a confirmation that, following the transaction, the Reinsurer will be in compliance with its relevant corporate policies including those related to liquidity, capital management, risk management and investments.

1.2.2. Non-FRE Reinsurer

Where the Reinsurer is a provincial entity,²² or where the applicant is a Canadian entity and the Reinsurer is a foreign entity that is not an FRE,²³ the applicant is generally expected to provide, or arrange for the Reinsurer to provide OSFI with:

- 23. details regarding the level of internal approval required with regard to the transaction (e.g., board of directors, board committee or senior management), based on the Reinsurer's corporate policies and procedures, as well as evidence that the transaction was approved at the appropriate level (e.g., relevant excerpts from the minutes of the meeting during which the transaction was approved);
- 24. the current organization chart (with percentages owned) of the Reinsurer's group;
- 25. details regarding whether the Reinsurer requires approval from its home regulator to enter into the transaction or must notify its home regulator about the transaction, and where any of these requirements apply, information regarding the status of meeting them;

²¹ To the extent this item 22(c)(v) information is not already provided under item 22(c)(i) above.

²² In the circumstance described in subparagraph 254(2)(a)(iii) or paragraphs 254(2.01)(c) or 587.1(2)(c) of the ICA. See item 5.1 of the Administrative Guidance below for more information.

²³ In the circumstance described in subparagraph 254(2)(a)(iv) or paragraph 254(2.01)(d) of the ICA.

-
26. a confirmation that the risks to be assumed by the Reinsurer fall within classes of insurance that the Reinsurer is authorized to underwrite;
 27. a copy of the most recent:
 - (a) examination report on the Reinsurer issued by the Reinsurer's home regulator or, if the report cannot be provided, any views that such regulator may provide regarding the Reinsurer, and
 - (b) report on the Reinsurer issued by a recognized credit rating agency, if available;
 28. for each of the most recent three years, copies of the Reinsurer's:
 - (a) annual regulatory filings submitted to the Reinsurer's home regulator, and
 - (b) financial statements (balance sheet, income statement, statement of changes in shareholders' equity);
 29. a confirmation that the Reinsurer meets the minimum capital requirements in its home jurisdiction, together with details supporting this confirmation;
 30. the name and contact information of an individual from the Reinsurer's home regulator that is familiar with the Reinsurer's activities;
 31. details of whether the Reinsurer has been the subject of any criminal proceedings or administrative sanctions;
 32. if the transaction is material to the Reinsurer, an analysis of the effect the transaction will have on the financial position and risk profile of the Reinsurer, including:
 - (a) a comparative *pro forma* balance sheet (immediately pre- and post-transaction) including relevant assumptions,
 - (b) a comparative *pro forma* capital position (immediately pre- and post-transaction) that confirms compliance with the Reinsurer's internal capital target and with requirements imposed by its home regulator, and
 - (c) three years of post-transaction financial projections, including income statement, balance sheet, capital ratios and key assumptions; and
 33. where the applicant is a Canadian entity and the Reinsurer is a foreign entity that is not an FRE, a confirmation that, in the applicant's view, the Policy risks were undertaken outside Canada.²⁴

1.2.3. Related Party Reinsurer

34. Where the applicant is a Canadian company and the Reinsurer is its related party, the applicant is generally expected to provide the information required in [Transaction Instruction DA No. 22 – Related-party asset transactions as part of a restructuring](#), to the

²⁴ OSFI would generally consider that Policy risks were “undertaken outside Canada” for purposes of subparagraph 254(2)(a)(iv) and paragraph 254(2.01)(d) of the ICA if such risks were not insured in Canada as described in OSFI's [Advisory 2007-01-R1: Insurance in Canada of Risks](#).

extent such information is not already provided under the information requirements referred to above.²⁵

1.3 Policy-focused Information Requirements

1.3.1. Voting Policies

Where the transaction involves Voting Policies, the applicant is generally expected to provide, or arrange for the Reinsurer to provide OSFI with:

35. a description of how the applicant proposes to address the related rights to vote; and
36. a confirmation of whether the Reinsurer proposes to grant the holders of these Policies the right to vote at its meetings (and where this is the case, a description of how the Reinsurer proposes to do so).

1.3.2. Distribution Policies or Adjustable Policies

37. Where the transaction involves Distribution Policies or Adjustable Policies, the applicant is generally expected to provide a description of how it proposes to ensure that the rights and interests of their holders (taking into account, among other things, their reasonable expectations) will not be prejudiced by the transaction.

Section 2: Formal Application Information Requirements

On or after the date specified in the Notice regarding when the applicant intends to make an application to the Minister or the Superintendent, and assuming the applicant proceeds with the formal application, the applicant is generally expected to provide, with its formal application:

38. proof that the Notice has been published in the *Canada Gazette* and in a newspaper described in subsection 254(3) or 587.1(4) of the ICA;
39. a confirmation that the proposed agreement and, if applicable, the signed IA report, were available for inspection for the period specified in the Notice;
40. a confirmation that the applicant has not received any objections related to the Notice or otherwise with regard to the transaction, or has addressed any objection received (together with a description of the manner in which each objection has been addressed);
41. where applicable, a copy of the Information Package sent to Policyholders, together with the date on which it was sent;
42. where the applicant or the Reinsurer does not have OSFI as its home regulator, the approval or any other response of its home regulator with regard to its proposal to enter into the transaction;
43. where the transaction is subject to a review under the *Competition Act*, the response of the Competition Bureau with regard to it; and

²⁵ See item 6.1 of the Administrative Guidance below for more information.

-
44. a confirmation that there is no material change to any of the information provided in support of the draft application (or, where there has been such a change, details regarding it).

Section 3: Post-approval Information Requirements

After the Minister's or the Superintendent's approval has been granted and the assumption reinsurance agreement has been executed, the applicant is expected to provide OSFI with a copy of the executed agreement, including the form of certificate of assumption that was sent to Policyholders, and the date on which the certificates were sent.

ADMINISTRATIVE GUIDANCE

1. Contexts in which Approvals Are Generally Granted

- 1.1 Approvals under the Legislative Authorities are generally granted only where the applicant seeks to exit:
- (a) the ICA's purview; or
 - (b) a line of business (OSFI generally views a line of business as being a specific product, a particular market in which a product is offered or a clearly defined segment of customers for a product).

2. Perspectives Regarding Assumption Reinsurance and Related Consequences

- 2.1 OSFI is of the view that from a legal perspective, at the moment an assumption reinsurance transaction takes effect, the applicant remains liable with regard to the Policies, and the Reinsurer assumes, as an additional obligor, the discharge of the obligations owed under the Policies. From accounting and actuarial perspectives, however, OSFI acknowledges that an assumption reinsurance transaction is generally characterized, from the moment it takes effect, as a transfer of the Policy risks to the Reinsurer, and that it is generally appropriate for the applicant to cease to report these risks.²⁶ In the course of its review of requests for approvals under the Legislative Authorities, OSFI will expect that:
- (a) the following items be consistent with the above legal perspective: the assumption agreement, the certificate of assumption and, where applicable, the Information Package and the Voting Package (except any portion of the Information Package or Voting Package that presents accounting or actuarial perspectives); and
 - (b) the rights and interests of holders of Voting Policies, Distribution Policies and/or Adjustable Policies will not be prejudiced by the transaction, having regard to the above legal perspective.

For greater certainty, the above legal perspective does not prevent applicants from looking to assumption reinsurance as a means to facilitate their exit from the ICA's purview. As it relates to a Canadian applicant, OSFI generally views assumption reinsurance as a way to provide for

²⁶ This contrast between the legal and accounting and actuarial perspectives is not incompatible. See item 3.4 below for more information.

the discharge of policy liabilities for purposes of discontinuance or voluntary liquidation and dissolution. As it relates to a foreign applicant, paragraph 651(a)(iii) of the ICA specifically refers to assumption reinsurance as a basis on which the Superintendent may grant the approval that terminates the insurance business in Canada.

- 2.2 Despite the above legal perspective, an assumption reinsurance transaction may be construed by Policyholders as offending “non-transfer” or “non-assignment” clauses contained in Policies. Policyholders may interpret such clauses as a commitment by the applicant that it will remain the Policyholders’ interface for, or sole provider of, the coverage under the Policies. As a result, where the Policies contain such clauses, OSFI generally expects the applicant to obtain the Policyholders’ consent either to (a) delete or amend these clauses or (b) proceed with the transaction despite these clauses. In the case where the applicant demonstrates that obtaining such consent is not commercially reasonable in the circumstances, OSFI expects the applicant to be transparent about these clauses in the Notice and the Information Package.
- 2.3 Policyholders to which an assumption reinsurance transaction relates are not parties to the assumption reinsurance agreement, yet they obtain (re)insurance coverage from the Reinsurer by virtue of, among other things, that agreement. As a result, OSFI expects the assumption reinsurance agreement to not contain any “no third party beneficiary” clause that may prejudice the Policyholders’ coverage from the Reinsurer.

3. Due Diligence and Other Elements of Guideline B-3

- 3.1 When performing due diligence to assess the Reinsurer’s suitability as an assumption reinsurance counterparty, OSFI expects the applicant to consider, among other things, the expertise and resources of the Reinsurer to (a) manage the risks to be assumed and (b) service the Policies. As part of item (b), the applicant is expected to consider, among other things, whether there will be any material changes to the level of service provided to the Policyholders.
- 3.2 [Guideline B-3: Sound Reinsurance Practices and Procedures](#) sets out OSFI’s expectations for effective reinsurance practices and procedures (B-3 Expectations). Applicants and Reinsurers that are FREs are reminded to consider B-3 Expectations in connection with assumption reinsurance transactions, and to meet these expectations as applicable in the circumstances.
- 3.3 In certain cases, Reinsurers that are FREs seek to assume, as part of assumption reinsurance transactions, the rights and obligations of Applicants in the Applicants’ capacity as cedants under indemnity reinsurance contracts related to the Policies. Where this is the case, a Reinsurer is reminded to consider B-3 Expectations not only with regard to its prospective capacity as Reinsurer, but also with regard to its prospective capacity as cedant under indemnity reinsurance contracts. In this regard, such a Reinsurer (and the applicant) should be mindful of, among other things, any “non-transfer” and “non-assignment” clauses contained in such indemnity reinsurance contracts. In addition, such a Reinsurer is also reminded that if such contracts are with related parties of the Reinsurer, the Reinsurer may need to seek approvals under section 523 or 597 of the ICA.
- 3.4 Following the transaction, and assuming the applicant continues to be an FRE, the applicant is reminded about the B-3 Expectation to perform a sufficient level of due diligence on the

Reinsurer on an on-going basis to ensure that the applicant is aware of its counterparty risk and is able to assess and manage such risk.²⁷ In practice, OSFI understands that an applicant would generally do so in connection with International Accounting Standard 37, when assessing whether a provision should be recognized in the notes to the applicant's financial statements for Policy risks that may come back on its books.

4. Notice and Other Disclosures

- 4.1 OSFI expects the Notice to provide that copies of the proposed assumption reinsurance agreement and, if applicable, the IA report,
- (a) are available for inspection, for at least 30 days after the publication of the notice, by the applicant's policyholders and, in the case of a Canadian applicant, its members or shareholders; and
 - (b) will be sent to any of these persons upon request in writing to the applicant's head office (in the case of a Canadian applicant) or chief agency (in the case of a foreign applicant).
- 4.2 OSFI expects that a certificate of assumption and an Information Package sent to a Policyholder be in the language in which the applicant regularly communicates in writing with the Policyholder. Only the English and/or French copies (as applicable) of the draft and final versions of these documents, however, are required to be provided to OSFI under the Information Requirements above.
- 4.3 OSFI generally expects the Information Package to be sent on the date the Notice is published or promptly after such publication.

5. Provincial Entities may be Reinsurers

- 5.1 Under subparagraph 254(2)(a)(iii) and paragraphs 254(2.01)(c) and 587.1(2)(c) of the ICA, a provincial entity may be a Reinsurer where the Superintendent has entered into satisfactory arrangements concerning assumption reinsurance transactions with the official or public body responsible for the supervision of the provincial entity. An applicant may contact OSFI to obtain information regarding such arrangements to determine whether the applicant may cause itself to be assumption reinsured by a provincial entity.

6. Self-dealing and Certain Other Rules under the ICA

- 6.1 While the self-dealing rules do not impose an approval with regard to assumption reinsurance transactions that are approved under section 254,²⁸ such transactions with related parties are

²⁷ In line with B-3 Expectations, the level of due diligence that an applicant should perform on the Reinsurer on an on-going basis should be commensurate with the level of exposure to the Reinsurer. An applicant may, at some point in the future, reasonably determine that due to the passage of time and other factors, its legal liability in respect of some or all of the Policies has ceased, which may impact the nature and extent of the applicant's on-going due diligence on the Reinsurer.

²⁸ See subsections 523(3) and 527(6) of the ICA.

nonetheless subject to these rules, including the section 534 “market terms and conditions” requirement.

- 6.2 Where the applicant is a Canadian company or a Canadian fraternal benefit society, assets transferred by the applicant as part of an assumption reinsurance transaction are exempted from the calculation and application of the 10% threshold for purposes of transactions addressed in [Transaction Instruction DA No. 18. – Asset Transaction Greater than 10% of Assets](#).²⁹ Where both the applicant and the Reinsurer are Canadian companies, the assets the Reinsurer acquires as part of an assumption reinsurance transaction are exempted from the calculation and application of this 10% threshold.³⁰
- 6.3 Where the proposed Reinsurer is a Canadian fraternal benefit society, the applicant is reminded that except as otherwise permitted by the ICA, a society may only insure the risks of its members and their spouses, common-law partners and children.³¹ In such a case, the applicant is also requested to contact, or arrange for the Reinsurer to contact, OSFI before the applicant submits an application under the Legislative Authorities, with a view to discuss how the Reinsurer intends on meeting this requirement.

7. Other Matters

- 7.1 Where an applicant seeks to exit the ICA’s purview after entering into an assumption reinsurance transaction, the applicant may be required to adequately address any actual or contingent obligations that are outside the scope of what was assumed by the Reinsurer before the applicant is granted the approval to exit the ICA’s purview.
- 7.2 Certain policies, such as mutual policies, are not only Voting and Distribution Policies, but also Ownership Policies. Where a transaction involves Ownership Policies, an applicant is requested to contact OSFI early in the process to discuss the ownership element.
- 7.3 OSFI views certain “structured settlement agreements” as being themselves annuity contracts³² (“Structured Annuities”) and therefore, as “policies” for purposes of subsection 2(1) of the ICA. Where this is the case, OSFI is of the view that:
- (a) an FRE that seeks to cause its obligations under Structured Annuities to be assumed by another entity may do so only after receiving approval under the Legislative Authorities; and
 - (b) it is generally not appropriate for a property and casualty company to act as a Reinsurer with regard to risks under Structured Annuities.³³

²⁹ See paragraphs 512(2)(c) and 569(3)(a) of the ICA. Foreign companies are outside the scope of section 512 and 569 of the ICA.

³⁰ See paragraph 512(2)(c) the ICA.

³¹ See subsection 542(1) of the ICA.

³² This is despite the fact that such agreements contemplate the purchase of a separate (but related) annuity contract.

³³ On the basis that section 448 and subsection 573(3) of the ICA provide that property and casualty companies shall not issue annuities.

Where a transaction involves structured settlement agreements, the applicant is requested to contact OSFI early in the process to discuss whether OSFI views these agreements as Structured Annuities.

- 7.4 The Minister or the Superintendent may consider whether the transaction would hinder the effective implementation of corrective measures in the future, and may request information to that effect.
- 7.5 Applicants are reminded about the [protocol for the initial submission of documents in support of requests for approval](#).
- 7.6 Requests for approval(s) that are addressed in this document are not subject to a service charge.³⁴

The information requirements and administrative guidance are intended to satisfy typical applications. They have been derived from OSFI's experience in assessing applications. Applicants who provide all information and material requested can generally expect a more timely assessment of their applications. As appropriate to the circumstances, OSFI may request additional information, take into account other matters, impose terms and conditions, or require undertakings.

³⁴ Please see [Charges for Services Provided by the Office of the Superintendent of Financial Institutions Regulations 2002](#).