

holding property in a trust capacity, by a joint control agreement which provides that the whole or a sufficient portion of the property so held may not be disposed of or pledged in any way without the consent of the insuring company.

[34 FR 20188, Dec. 24, 1969, as amended at 40 FR 6499, Feb. 12, 1975; 41 FR 10605, Mar. 12, 1976; 42 FR 8637, Feb. 11, 1977; 43 FR 39089, Sept. 1, 1978]

§ 223.12 Recognition as reinsurer.

(a) *Application by U.S. company.* Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Comptroller for Auditing and shall transmit therewith the fee in accordance with the provisions of § 223.22(a)(2):

(1) A certified copy of its charter or articles of incorporation, and

(2) A certified copy of a license from any State in which it has been authorized to do business, and

(3) A copy of the latest available report of its examination by a State Insurance Department, and

(4) A statement of its financial condition, as of the close of the preceding calendar year, on the annual statement form of the National Association of Insurance Commissioners, signed and sworn to by two qualified officers of the company, showing that it has a capital stock paid up in cash of not less than \$250,000, in the case of a stock insurance company, or has net assets of not less than \$500,000 over and above all liabilities, in the case of a mutual insurance company, and

(5) Such other evidence as the Secretary of the Treasury may determine necessary to establish that it is solvent and able to keep and perform its contracts.

(b) *Application by a U.S. branch.* A U.S. branch of an alien company applying for such recognition shall file the following data with the Assistant Commissioner, Comptroller and shall transmit therewith the fee in accordance with the provisions of § 223.22(a)(2):

(1) The submissions listed in paragraphs (a) (1) through (5) of this section, except that the financial statement of such branch shall show that it has net assets of not less than \$250,000 over and above all liabilities, and

(2) Evidence satisfactory to the Secretary of the Treasury to establish that it has on deposit in the United States not less than \$250,000 available to its policyholders and creditors in the United States.

(c) *Financial reports.* Each company recognized as an admitted reinsurer shall file with the Assistant Commissioner, Comptroller on or before the first day of March of each year its financial statement and such additional evidence as the Secretary of the Treasury determines necessary to establish that the requirements of this section are being met. A fee shall be transmitted with the foregoing data, in accordance with the provisions of § 223.22(a)(4).

[34 FR 20189, Dec. 24, 1969, as amended at 37 FR 1232, Jan. 27, 1972; 40 FR 6499, Feb. 12, 1975; 43 FR 12678, Mar. 27, 1978; 49 FR 47002, Nov. 30, 1984]

§ 223.13 Full penalty of the obligation regarded as the liability; exceptions.

In determining the limitation prescribed in this part, the full penalty of the obligation will be regarded as the liability, and no offset will be allowed on account of any estimate of risk which is less than such full penalty, except in the following cases:

(a) Appeal bonds; in which case the liability will be regarded as the amount of the judgment appealed from, plus 10 percent of said amount to cover interest and costs.

(b) Bonds of executors, administrators, trustees, guardians, and other fiduciaries, where the penalty of the bond or other obligation is fixed in excess of the estimated value of the estate; in which cases the estimated value of the estate, upon which the penalty of the bond was fixed, will be regarded as the liability.

(c) Credit will also be allowed for indemnifying agreements executed by sole heirs or beneficiaries of an estate releasing the surety from liability.

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(d) Contract bonds given in excess of the amount of the contract; in which cases the amount of the contract will be regarded as the liability.

(e) Bonds for banks or trust companies as principals, conditioned to repay moneys on deposit, whereby any law or decree of a court, the amount to be deposited shall be less than the penalty of the bond; in which cases the maximum amount on deposit at any one time will be regarded as the liability.

[Dept. Circ. 297, July 5, 1922]

§ 223.14 Schedules of single risks.

During the months of January, April, July, and October of each year every company will be required to report to the Secretary of the Treasury every obligation which it has assumed during the 3 months immediately preceding, the penal sum of which is greater than 10 percent of its paid up capital and surplus, together with a full statement of the facts which tend to bring it within the provisions of this part, on a form suitable for the purpose.

[Dept. Circ. 297, July 5, 1922]

§ 223.15 Paid up capital and surplus for Treasury rating purposes; how determined.

The amount of paid up capital and surplus of any such company shall be determined on an insurance accounting basis under the regulations in this part, from the company's financial statements and other information, or by such examination of the company at its own expense as the Secretary of the Treasury may deem necessary or proper.

[42 FR 8637, Feb. 11, 1977]

§ 223.16 List of certificate holding companies.

A list of qualified companies is published annually as of July 1 in Department Circular No. 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, with information as to underwriting limitations, areas in which licensed to transact surety business and other details. If the Secretary of the Treasury shall take any exceptions to the annual financial statement submitted by a

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company, he shall, before issuing Department Circular 570, give a company due notice of such exceptions. Copies of the Circular are available from the Assistant Commissioner, Comptroller upon request. Selection of a particular qualified company from among all companies holding certificates of authority is discretionary with the principal required to furnish bond.

[34 FR 20189, Dec. 24, 1969, as amended at 40 FR 6499, Feb. 12, 1975; 42 FR 8637, Feb. 11, 1977; 49 FR 47002, Nov. 30, 1984]

§ 223.17 Revocation.

Whenever it appears that a company is not complying with the requirements of 6 U.S.C. 6-13 and of the regulations in this part, the Secretary of the Treasury will:

(a) In all cases notify the company of the facts or conduct which indicate such failure, and provide opportunity to the company to respond, and

(b) In those cases where the public interest in the constant financial stability of such a company allows, also provide opportunity to the company to demonstrate or achieve compliance with those requirements. The Secretary shall revoke a company's certificate of authority with advice to it if:

(1) The company does not respond satisfactorily to his notification of noncompliance, or

(2) The company, provided an opportunity to demonstrate or achieve compliance, fails to do so.

[34 FR 20189, Dec. 24, 1969. Redesignated at 38 FR 22779, Aug. 24, 1973, as amended at 42 FR 8637, Feb. 11, 1977]

§ 223.18 Performance of agency obligations.

(a) Every company shall promptly honor its bonds naming the United States or one of its agencies or instrumentalities as obligee. If an agency's demand upon a company on behalf of the agency or laborers, materialmen, or suppliers (on payment bonds), for payment of a claim against it is not settled to the agency's satisfaction, and the agency's review of the situation thereafter establishes that the default is clear and the company's refusal to pay is not based on adequate