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Treaties: What An Underwriter Should Know

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What We'll Talk About

- Purpose
- Construction
 - Articles
 - Underwriting issues
 - Schedules
 - Underwriting issues
 - Exhibits
- Disagreements
- Privacy/Data Security



Purpose of the Treaty

The *reinsurance agreement*, or *treaty*, represents the documented legal contract between two insurance companies with respect to the cession and reinsurance of the subject business.

Tiller & Tiller – Life, Health & Annuity Reinsurance – Third Edition

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Construction of the Treaty

- RFP for new product or product change
- Negotiated agreement
- Canadian Life and Health Insurance Association (CLHIA) template available for guidance:
 - 2009 Reinsurance Treaty Reference Document
- OSFI Guideline B3 Considerations
 - Contract Summary Document – captures “key”, but not all, features of the deal
- Who has the pen?
- More rigor today than in the past
- No longer looked at as a “gentlemen’s agreement”
- Business is often written before the treaty is signed





Construction to the Treaty – Articles

- **Parties to the Agreement**
- **Scope**
- **Duration**
- **Basis of Reinsurance**
- **Underwriting**
- **Automatic Reinsurance**
- **Facultative Reinsurance**
- **Premium Payment**
- **Administration**
- **Claims**
- **Risk Triggers**
- **Errors & Omissions**
- **Recapture**
- **Insolvency**
- **Arbitration**
- **Confidentiality & Privacy**
- **Good Faith**





Parties to the Agreement

- Between a Direct Writer and Reinsurer, or a Reinsurer and Retrocessionnaire
- Front Page Information:
 - Example - “Automatic and facultative yearly renewable term reinsurance agreement”
 - Legal name and location of parties
 - “The Company” and “The Reinsurer”
 - Effective date



Basis of Reinsurance

- Underwriting type – fully underwritten, guaranteed issued, simplified issue or other.
- Premiums - YRT, Coinsurance or other
- References to Schedule items:
 - Plans, benefits and riders covered
 - Reinsurers share
 - Treaty capacity
 - Jurisdiction





Automatic Reinsurance

Underwriting

The normal underwriting standards and practices of the Company for individual life insurance will be applied to this business. Any material changes to the underwriting procedures and evidence rules will be subject to approval by the Reinsurer before being applied to policies and benefits covered under this Agreement.

Underwriting requirements will be based on the total amount of insurance to be placed with the Company within a six-month period prior to the receipt of the application.

If the policy has not come into effect as a result of a material change in insurability of a proposed applicant between the date the application was completed and the date of delivery or the underwriting acceptance date, as the case may be, then the Reinsurer will refund Gross Reinsurance Premiums to the Company and the Company will refund any reinsurance allowances to the Reinsurer, if applicable.





Automatic Reinsurance

Automatic Cession

If the amount of life insurance required on a particular application does not exceed the Automatic Binding Limit or the Remaining Automatic Binding Limit, if less, then the Company will cede and the Reinsurer will accept a cession on an automatic basis, subject to the other terms and conditions of this Agreement as outlined in the [BASIS OF REINSURANCE](#) and [UNDERWRITING](#) sections. Otherwise, the provisions of this section do not apply and the application must be submitted on a facultative basis subject to the provisions of the [FACULTATIVE CESSION](#) section.

CLHIA - 2009 Reinsurance Treaty Reference Document





Facultative Reinsurance

Facultative Cession

When submitting a facultative cession, the Company will provide to the Reinsurer a copy of the complete insurance papers in its possession (insurance application, medical examinations, reports and tests, inspection reports, etc.) and a copy of any papers subsequently received. Any subsequent information received by the Company that is pertinent to the risk assessment should be transmitted to the Reinsurer immediately.

The Company may submit such application to other reinsurers as well as to the Reinsurer. If any risk is submitted to more than one reinsurer for consideration, the Company will follow its allocation rules for placement of cases. The Company will notify the Reinsurer in writing of its acceptance of the offer.

CLHIA - 2009 Reinsurance Treaty Reference Document

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Administration

- Placing reinsurance
- Paying premiums and claims
- Lapses
- Surrenders
- Reinstatements
- Reductions
- Other changes affecting reinsurance



Schedule

- Business covered
- Reinsurers' share
- Rates and allowances
- Retention
- Autobind
- Jumbo limit
- Claims authority
- Reporting requirements



Exhibits (examples)

- Reinsurance premiums
- Allowances
- Applications
- Age & Amount requirements
- Policy forms
- ESA Formulas
- Other information relevant to the treaty



Disagreements

- What do we do when the treaty is ambiguous, silent or lost?
- How do we deal with oversights, errors and omissions?
- What remedies do we have?
- Will everyone be happy?



Disagreements

- What is the cost of poor drafting?
 - Time
 - Resources – internal & external
- Can every possible event be captured in the treaty?
- What solutions are available?
 - Errors & Omissions
 - Arbitration





Errors & Omissions

- Started with “Clerical Errors”
- What’s covered by E&O
- What’s not covered?
- Where do underwriting errors fit in?
- Materiality thresholds
- Sunset clauses



Arbitration

- Gentlemen's agreement concept
- Good business practice
- Does not require public disclosure
- A better solution to legislation?
- Mechanics:
 - Industry experts
 - Typically each side nominates an arbitrator and between them they select a third
 - What happens when a decision is made?



What's Hot?



Privacy/Data Security

- Privacy wording:
 - PIPEDA
- Cybersecurity:
 - More due diligence of reinsurers' data security practices
 - Detailed questionnaires
 - Security certification
 - Location of data storage
 - Timelines of notification of breaches
 - Pushing costs of data breaches to reinsurers



Thank You

