

November 27, 1984

SUBJECT: INSURANCE

WITHDRAWN

Supplement No. 1 to Circular Letter No. 19(1983)

November 27, 1984

TO: ALL LICENSED INSURANCE COMPANIES

SUBJECT: LETTERS OF CREDIT

By means of this Supplement to Circular Letter No. 19 (1983) the Department advises all licensed insurers that conditions (5) and (6) are amended to reflect the implementation of the 1983 Revision of the Uniform Customs and Practice for Documentary Credits (Publication 400). In addition, as respects insurers other than life, Exhibit D "Trust Agreement" is amended to grant the ceding insurer permission to obtain a cash deposit equal to the "obligations" due or which may become due pursuant to the terms of the reinsurance agreement, if the ceding company receives notification of the non-renewal of the letter of credit.

Amended conditions (5) and (6) are effective immediately. The Uniform Customs and Practices for Documentary Credits (1983 Revision) of the International Chamber of Commerce (Publication 400), was effective on October 1, 1984. All trust agreements entered into on or after January 1, 1985 must conform in substance to revised Exhibit D.

Amended Conditions (5) and (6):

(5) The letter of credit must state whether it is subject to and governed by the Laws of the State of New York or the Uniform Customs and Practice for Documentary Credits (1983 Revision) of the International Chamber of Commerce (Publication 400), and all drafts drawn thereunder must be presentable at a bank office in the United States.

ATTACHMENT

Exhibit D (Revised January 1, 1985)

TRUST AGREEMENT

This Agreement between _____, (hereinafter called the "reinsurer"), and _____, (hereinafter called the "the coding company").

WITNESSETH:

The reinsurer has secured delivery to the ceding company of a clean, irrevocable letter of credit of the _____, No. _____ dated _____ in the sum of Dollars (\$ _____) expiring on _____ "the Credit" securing refund end payment to the ceding company of reinsurer's share of any "obligations" due or which may become

due to the ceding company pursuant to the terms of a certain Reinsurance Agreement No. _____ "the treaty" between the parties which became effective on _____.

"Obligations" whenever used herein, shall include:

- a. losses and allocated loss expenses paid by the ceding company, but not recovered from the reinsurer;
- b. reserves for losses reported and outstanding;
- c. reserves for losses incurred but not reported; and
- d. reserves for allocated loss expenses and unearned premiums.

Now, THEREFORE, in consideration of Reinsurer's having so applied for and secured delivery of said Letter of Credit which is hereby acknowledged, the ceding company undertakes to use and apply any amounts which it may draw upon such Credit, without diminution because of any insolvency of the ceding company, for the following purposes only:

- (1) to pay or reimburse such ceding company for the reinsurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding company, but not recovered from the reinsurer or for unearned premiums due to the ceding company, if not otherwise paid by the reinsurer;
- (2) to make payment to the reinsurer of any amounts held in the trust account that exceed the actual amount required to fund the reinsurer's obligations under the specific reinsurance agreement; or
- (3) where the ceding company has received notification of the non-renewal of the letter of credit and where the reinsurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged _____ days prior to such expiration date, to obtain a cash deposit equal to such obligations and deposit such amounts in a separate account, in the name of the ceding company in any United States bank or trust company, in trust for such uses and purposes specified in (1) and (2) above as may remain executory after obtaining the cash deposit and for any period after such expiration date.