02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

031 BUREAU OF INSURANCE

Chapter 255: WORKERS' COMPENSATION FRONTING COMPANIES

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Section 1. Authority and Purpose

This major substantive rule is adopted pursuant to 24-A M.R.S. §§ 212 and 39-A M.R.S. § 403(4-B)(D) to establish the terms and conditions for the implementation of group self-insurance fronting arrangements and the formation, operation, and dissolution of workers' compensation fronting companies.

Section 2. Scope

This rule applies to all fronting companies, as defined in this rule, to all employers and group self-insurers that participate or have participated in fronting arrangements, to all group self-insurance reinsurance accounts that sponsor or have sponsored fronting companies, and to their respective successors until all obligations under this rule are fully discharged.

Section 3. Definitions

1. "Commercial insurance company" means a domestic insurer that holds a certificate of authority from the Superintendent under 24-A M.R.S. § 414, or a foreign insurer that is similarly authorized by its domiciliary jurisdiction to transact insurance.

2. "Coverage state" means a United States jurisdiction, other than this State, in which a participating employer has business operations that trigger an obligation for the employer to obtain a workers' compensation insurance policy or otherwise secure the payment of workers' compensation benefits under the laws of that jurisdiction.

3. "Fronting arrangement" means an agreement among a fronting company, one of its participating groups, one of the group's participating employers, and, if applicable, the sponsoring reinsurance account, under which:

   A. The fronting company issues a workers' compensation insurance policy to the participating employer in one or more coverage states; and

   B. The fronting company cedes all of the premium and all of the exposure under the policy to the participating group, and the participating group or the sponsoring reinsurance account assumes all responsibility for policy servicing and claims administration.

4. "Fronting company" means a business entity approved under this rule to provide coverage to participating employers through fronting arrangements. "Fronting company" does not include a commercial insurance company or a domestic captive insurance company licensed under 24-A M.R.S. § 6702.

5. "General expenses" means expenses that are the undivided obligation of the fronting company rather than the direct responsibility of a particular participating group. General expenses include taxes, fees, and assessments levied in this State or any coverage state, even if they are calculated as a percentage of premium, unless the state or other governmental or nongovernmental entity imposing the tax, fee, or assessment has agreed to bill each participating group separately for its *pro rata* share.

6. "Governing documents" means the fronting company's articles of incorporation and bylaws.

7. "Member group" means a group self-insurer that has been authorized by the Superintendent pursuant to 39-A M.R.S. § 403(5) and Bureau of Insurance Rule Chapter 250 and is a member of a fronting company's sponsoring reinsurance account.

8. "Owner" means a shareholder of a stock corporation or a member of a nonprofit corporation.

9. "Participating employer" means an employer that is a member of a participating group and has entered into a fronting arrangement with the group and a fronting company.

10. "Participating group" means a member group that has been approved under this rule to enter into fronting arrangements for its member employers.

11. "Policy" means the contract under which a fronting company agrees to pay workers' benefits to employees of a participating employer under the laws of one or more coverage states, whether or not the coverage state uses the same terminology.

12. "Service provider" means any individual or business entity hired by a fronting company, its sponsoring reinsurance account, or a participating group to provide accounting, actuarial, auditing, or other services for the fronting company.

13. "Sponsoring reinsurance account" means a group self-insurance reinsurance account, approved by the Superintendent under 39-A M.R.S. § 403(4-A), that has agreed to guarantee the liabilities of a fronting company established under this rule.

Section 4. Organization and Governance of Fronting Companies

1. A fronting company must be organized as a domestic stock corporation under Title 13-C M.R.S or as a nonprofit mutual benefit corporation under Title 13-B M.R.S.

2. A fronting company's business must be limited to the issuance and administration of workers' compensation coverage through fronting arrangements, consistent with the requirements of this rule and the fronting company's plan of operation as approved by the Superintendent.

3. A fronting company must be wholly owned by its sponsoring reinsurance account or one or more of its member groups or former member groups, singly or in any combination. The value of any ownership interest in a fronting company shall not be considered as an asset in calculating the fund balance or distributable surplus of a group self-insurer or reinsurance account.

4. A fronting company's legal name or business name may not be deceptive or misleading. If the name includes the word "insurance" or otherwise implies that the fronting company is an insurer, the fronting company's letterhead and other materials using that name must include a disclaimer that the company is not licensed as an insurer in Maine.

Section 5. Application for Approval

1. Before providing any workers' compensation coverage, a fronting company must be approved by the Superintendent pursuant to this section. Any solicitation of coverage and any fronting arrangement entered into by a fronting company that has not been approved must be expressly contingent on the Superintendent's approval and must disclose, as applicable, that an application for approval is still pending or that an application has not yet been submitted.

2. An application for approval must be submitted jointly by the proposed fronting company, the sponsoring reinsurance account, and one or more participating groups, and must include:

   A. A proposed plan of operation for the fronting company, meeting the requirements of Section 6(1);

   B. Copies of the governing documents of the proposed fronting company;

   C. Biographical affidavits for each of the proposed fronting company's directors and officers;

   D. Documentation demonstrating that the proposed fronting company has at least $500,000 in unencumbered surplus, or a binding commitment to provide those funds before the fronting company commences operations;

E. Documentation demonstrating that each proposed participating group has aggregate member net worth of at least $50 million;

F. A business plan for the proposed fronting company, including without limitation, to the extent not fully addressed by the proposed plan of operation:

(1) The identities, if known, of the initial coverage state or states in which the company intends to do business, and a report on any communications the applicants have had with regulators in those states on the feasibility of approval in those states and the conditions that would be required for approval;

(2) The identities of the initial participating groups;

(3) The identities of all service providers that have been selected at the time of the application;

(4) Confirmation that the fronting company will have no employees of its own, or a hiring budget for the first five years of operation, including estimated payroll, the general responsibilities of the fronting company's employees, and the positions and projected salaries of the five highest-paid salaried employees, with their identities if known;

(5) Confirmation that the fronting company will hold no assets outside the trust account to be established pursuant to Section 6(3), or a budget outlining the projected value of the assets to be held outside the trust account for the first five years of operation and describing the purposes for which those assets will be held; and

(6) The fronting company's projected premium volume, claims, and expenses for the first five years of operation;

G. Copies of all contracts or proposed contracts with service providers, or a description of the anticipated terms to the extent that contracts have not yet been drafted. With the approval of the Superintendent, the applicants may also exclude contracts from the scope of this paragraph and Paragraph H if they meet approved criteria designed to identify contracts with no material impact on the fronting company's operations;

H. Copies of any contracts or proposed contracts, or a description of any anticipated contracts, that are not otherwise provided pursuant to this subsection and to which the fronting company is a party, or to which the sponsoring reinsurance account or a participating group is a party and which expressly relate to the operations of the fronting company;

I. An unconditional financial guaranty executed by the sponsoring reinsurance account to satisfy the requirements of Section 8(1)(A), and the form of agreement to indemnify the sponsoring reinsurance account executed by each member group to satisfy the requirements of Section 8(1)(B), along with evidence that each member group has executed such an agreement;

J. The form of notice of joint and several liability and potential assessment obligation that has been sent or shall be sent to each member employer of each member group as required by Section 6(4);

K. A copy of the declaration of trust establishing the surplus account required by Section 6(3);

L. A detailed explanation of each fronting arrangement, including:

(1) The form of agreement to cede premium and risk, as required by Section 6(5)(A) and 39-A M.R.S. §§ 403(4-B)(A)(1) & (B)(2)(c), to be executed by the fronting company and each participating group before the group participates in any fronting arrangement;

(2) The policy form or forms under which coverage is to be provided;

(3) A description of the rating methodology;

(4) The form of policy servicing agreement, as required by Section 6(5)(B), to be executed by the fronting company and by either the sponsoring reinsurance account or each participating group;

(5) A description of the mechanism by which the participating group ensures that claims are paid in full when due; and

(6) Procedures for terminating a fronting arrangement and ensuring that all obligations incurred under the fronting arrangement will continue to be paid when due; and

M. Proposed amendments, as necessary for compliance with this rule:

(1) To the sponsoring reinsurance account's plan of operation, including procedures for oversight of the fronting company, collection of any amounts owed by its member groups under Section 8, and if applicable, for policy servicing and claims administration;

(2) If necessary, to the sponsoring reinsurance account's bylaws;

(3) If necessary, to the sponsoring reinsurance account's declaration of trust;

(4) To the bylaws of each member group, including any amendments necessary to address the group's obligations under Section 8(1) and if applicable under Section 7; and

(5) If necessary, to the group self-insurance agreements executed by member employers.

3. The applicants shall provide any additional information reasonably requested by the Superintendent for purposes of reviewing the application.

4. The Superintendent shall approve the application, subject to such conditions as the Superintendent reasonably determines to be necessary for the safe and successful operation of the fronting company, if the applicants demonstrate to the Superintendent's satisfaction that the applicants have presented a viable business plan for successful operations in compliance with this rule and applicable laws in Maine and the various coverage states, and the Superintendent does not find that the operations of the fronting company would likely be hazardous to employers, employees, or the public. When deciding whether to approve the application, and establishing any conditions of approval, the Superintendent shall consider all relevant factors, including, but not limited to:

   A. The impact on the Bureau's compliance with the financial accreditation standards of the National Association of Insurance Commissioners;

   B. Whether regulators in at least one potential coverage state have expressed interest in authorizing the fronting company to provide coverage, and any conditions they would impose on the fronting company's operations in that jurisdiction;

   C. The sufficiency of the applicants' available financial resources to meet the exposure they have undertaken to incur for the entire period of time that claims against the fronting company remain open; and

   D. The adequacy of the applicants' preparedness for adverse loss development and other material risks.

5. Any document filed under this section must be updated promptly if there is any change to it while the application is pending or after it has been approved.

Section 6. Operation of Fronting Companies

1. The fronting company must operate in compliance with a plan of operation approved by the Superintendent. The plan of operation shall contain reasonable and appropriate provisions for the sound operation of the fronting company and its fronting arrangements, including, without limitation, the following provisions:

   A. Designating the sponsoring reinsurance account and specifying its rights and responsibilities, including the assessment of its member groups to provide funding to cover deficits;

   B. Specifying the date and establishing the conditions upon which the fronting company will commence providing coverage;

   C. Establishing procedures for applying for approval to do business in a new coverage state, and for withdrawing from a coverage state;

   D. Establishing procedures for commencing, administering, and terminating fronting arrangements, including without limitation:

(1) Whether policy administration and claims handling are the responsibility of the sponsoring reinsurance account or the participating groups, and who will provide these services if the designated policy administrator ceases to serve for any reason or fails to provide adequate service;

(2) The terms under which the designated policy administrator may offer and bind coverage, collect premium, and pay claims;

(3) The premium rating methodology;

(4) Grounds and procedures for termination for cause.

E. Establishing procedures for the selection of service providers and timely payment of general expenses, including the decision-making process and the allocation of expenses among participating groups and collection of the necessary funds;

F. Establishing and administering the surplus trust account maintained under Subsection 3 of this section;

G. Ensuring that funding is adequate at all times, and that the fronting company, its sponsoring reinsurance account, and the sponsoring reinsurance account's member groups remain in compliance with the requirements of this rule, the plan of operation, and applicable law in this State and each coverage state;

H. Designating the fronting company's fiscal year and accounting standards, which shall be either Generally Accepted Accounting Principles or Statutory Accounting Principles, at the election of the fronting company;

I. Establishing procedures for declaring, calculating, and allocating dividends to shareholders, participating groups, or participating employers. and paying them after approval by the Superintendent.

J. Establishing procedures for the timely and accurate completion and submission of all reports and filings specified in this rule or required by any coverage state;

K. Establishing procedures for amending the plan of operation;

L. Establishing procedures to enforce the obligations of participating groups and other member groups, and to ensure the continuing payment of all obligations if the participating group or sponsoring reinsurance account terminates; and

M. Establishing procedures for winding down the operations of the fronting company and for initiating dissolution.

2. Amendments to the approved plan of operation must be submitted to the Superintendent for review and may not take effect until they have been approved by the Superintendent.

3. The fronting company's capital and surplus must be held in a trust account that is subject to the same requirements as a group self-insurance trust under 39-A M.R.S. § 403(9) and Bureau of Insurance Rule Chapter 250 except as otherwise expressly provided in this rule or in the fronting company's approved plan of operation. The declaration of trust and any

amendments to the declaration of trust must be submitted to the Superintendent for review and may not take effect until they have been approved by the Superintendent.

A. The trust balance must be at least $500,000, or such other amount as the Superintendent may require or permit pursuant to Subparagraphs (1) through (3).

(1) If the Superintendent reasonably determines that a higher minimum capital requirement is appropriate based on the volume of business transacted, or proposed to be transacted, and the nature of the risks, after giving due consideration to the financial strength of the participating groups and the sponsoring reinsurance account, the Superintendent may set a higher minimum capital requirement. If a higher capital requirement is in force, the fronting company may request a reduction, but not below $500,000, upon a showing that the conditions giving rise to the increase in the capital requirement have changed. The Superintendent may also increase the capital requirement should circumstances change requiring a higher amount, such as an increase in the number of covered employees or a change to the risk profile of covered employees.

(2) If the fronting company has wound up its operations and is in runoff, the Superintendent may reduce the required minimum capital requirement to a level that is reasonable in light of the remaining exposure, the remaining risk of adverse development, and the projected time horizon before the fronting company's liabilities are fully discharged.

(3) If the plan of operation provides for the payment of some or all of the fronting company's general expenses from the trust account, the trust balance must include an additional amount sufficient to pay all expenses that are the obligation of the trust, plus a reserve for general expenses that might be due and payable within next six months.

B. With the prior approval of the Superintendent, amounts held in excess of the minimum required by Paragraph A may be distributed as provided in the plan of operation. No other expenditures may be made from the trust except:

(1) To pay routine general expenses to the extent provided in the plan of operation and funded in advance in accordance with Paragraph A(3);

(2) To pay a claim for benefits that is due or overdue, if the participating group or its designated claims administrator has failed to pay and prior notice has been given to the Superintendent; or

(3) To pay any other legally enforceable obligation of the fronting company with the prior approval of the Superintendent.

C. If the trust's balance falls or is likely to fall below the minimum required by Paragraph A, assessments to remedy the deficit must promptly be levied against participating groups in the manner provided in the plan of operation.

D. The terms of the trust must designate the Superintendent as successor trustee if either:

(1) The Superintendent reasonably determines that the trust's balance has fallen or is likely to fall below the minimum required by Paragraph A and that there is a material risk that the deficit will not be promptly remediated; or

(2) The Superintendent finds probable cause that grounds exist for termination of the fronting company's approval under Section 10(2).

4. Before submitting an application for approval of a fronting company, each member group must provide notice to each member employer advising the employer that if the employer remains in the group after the fronting company commences operations, it will be jointly and severally liable for any deficits resulting from any fronting arrangement in which the group participates and, in addition, for any assessment against the group resulting from the inability of another member group to pay its share of fronting company losses.

5. Before a fronting arrangement or any policy that is a component of a fronting arrangement may take effect, the participating group or other party designated by the plan of operation must provide evidence to the Superintendent that all necessary parties have executed the following agreements and that the agreements conform to the most recent form documents on file with the Superintendent:

A. An agreement between the fronting company and the group under which the fronting company agrees to cede all premiums to the group for each fronting arrangement in which the group participates, and the group agrees to assume all fronting company exposures arising out of each fronting arrangement in which the group participates and to accept the ceded premiums as payment in full; and

B. An agreement between the fronting company and either the group or the sponsoring reinsurance account, establishing the terms under which the group or reinsurance account agrees to assume full responsibility for policy servicing and claims administration.

6. Each policy issued under a fronting arrangement shall provide coverage sufficient to satisfy the laws of the coverage state or states designated in the policy, for the benefit of those employees of the participating employer who are eligible to claim benefits under the workers' compensation laws of a designated coverage state for occurrences arising out of operations of the participating employer that are subject to the jurisdiction of that designated coverage state.

A. A fronting arrangement may not take effect until a regulator with competent authority in each coverage state within the scope of the fronting arrangement:

(1) Has confirmed to the Superintendent that the fronting company has been approved to offer coverage in that state;

(2) Has provided the Superintendent with any conditions of approval;

(3) Has confirmed that the coverage state is aware that as set forth in Section 11(4), claimants in the coverage state will not be protected by the Maine Self-Insurance Guarantee Association or the Maine Insurance Guaranty Association if the fronting company is liquidated or dissolved, and has provided an explanation satisfactory to the Superintendent about the protection, if any, that would be provided by the guaranty association in the coverage state; and

(4) Has confirmed that the applicable authorities in the coverage state have reviewed the terms of the fronting arrangement and do not object to them.

B. The Superintendent shall provide regulators in coverage states with all information reasonably necessary for their oversight of the fronting company's operations, provided that confidential information may only be shared in a manner consistent with the requirements of 24-A M.R.S. § 216(5).

C. The Superintendent may prescribe such additional requirements for fronting companies and participating groups, including supplementary filings, as the Superintendent determines in consultation with regulators in coverage states to be necessary to ensure the fronting company's compliance with the requirements of the respective coverage states.

7. All service providers shall meet, at a minimum, the qualifications for comparable service providers for group self-insurers. The fronting company shall give notice to the Superintendent within 30 days after hiring, terminating, or changing the terms of engagement of any service provider.

8. A fronting company, or a participating group or sponsoring reinsurance account on the fronting company's behalf, shall promptly respond to all reasonable requests for information made by the Superintendent, and shall submit the following reports to the Superintendent:

A. Within 120 days after the close of the fronting company's fiscal year:

(1) An audited financial statement, including a Statement of Financial Position, a Statement of Operations, a Statement of Cash Flows, and all footnotes and disclosures which are an integral part of the financial statements;

(2) An actuarial report; and

(3) Any other reports reasonably required by the Superintendent; and

B. Copies of all reports required to be filed with a coverage state, at the same time as they are filed with the coverage state.

9. A fronting company's articles of incorporation must provide that the written approval of the Superintendent is required before:

   A. The fronting company's owners sell, transfer, or pledge their ownership interests in whole or part;

   B. The fronting company issues additional shares, borrows money, or enters into other financing transactions;

   C. The fronting company forms or acquires any subsidiary;

   D. The fronting company initiates proceedings to redomesticate, merge with another entity, voluntarily dissolve, or enter into voluntary bankruptcy; or

   E. The fronting company amends its governing documents.

Section 7. Participating Groups

1. The employer members of a participating group are jointly and severally liable for all obligations incurred by the group under a fronting arrangement, including its share of the fronting company's general expenses as allocated under the plan of operation. Those obligations shall be included and itemized in the actuarial analysis and financial reports of the group.

2. If the participating group is responsible for administering claims, the group shall pay all valid claims on or before they are due. If the sponsoring reinsurance account is responsible for administering claims, the group shall promptly comply with all funding requests from the sponsoring reinsurance account. If a participating group is required by the coverage state or by the terms of its agreement with the fronting company to post collateral for obligations assumed from the fronting company, the group shall provide and maintain all collateral as required. Any funding or collateral provided under this section in excess of the amount carried by the group as a reserve for the underlying liabilities shall be accounted for as an obligation of the group and shall be recoverable from the group's members as necessary through the group's assessment process.

3. If the fronting company's premiums are paid directly to the sponsoring reinsurance account or to a third-party administrator under contract with the participating group or the sponsoring reinsurance account, the reinsurance account or third party administrator must execute a written agreement that the funds are the property of the group, are being held in a fiduciary capacity, and may only be expended for the purposes specified by this rule and the fronting company's plan of operation.

4. A participating group must maintain an aggregate member net worth of at least $50 million or such higher amount as the Superintendent may specify based on the volume of fronting arrangements in which it participates and the nature of the risks. The group shall include an accurate report of each member's net worth in each annual renewal application, and shall provide more frequent reports if requested by the Superintendent. If the group fails to maintain the required aggregate member net worth, its authorization to participate in fronting agreements shall be suspended or revoked.

5. If a group's authorization to participate in fronting arrangements is suspended or revoked, the fronting company may not issue or renew policies for the group's member employers during the period of suspension or on or after the effective date of the revocation.

   A. Policies in force on the effective date of the suspension or revocation shall terminate on their next anniversary date unless the policy is terminated earlier, consistent with the law of the coverage state:

      (1) Voluntarily by the employer in accordance with the terms of the policy;

      (2) For good cause by the fronting company in accordance with the terms of the policy; or

      (3) As may be specified by the Superintendent in the order of suspension or revocation.

   B. In setting the effective date of any suspension or revocation, the Superintendent shall consider the reasons for the suspension or revocation, the ability of covered employers and employers who have bound coverage to find alternative coverage for their risks in the coverage state or states, and the risk posed by delaying the effective date of suspension or revocation.

   C. If a participating group ceases to be a member group, its authorization to participate in fronting arrangements is deemed to be revoked no later than the effective date of the termination of its membership in the sponsoring reinsurance account.

6. If a participating group terminates operation, the termination plan or termination order shall specify the process for termination of fronting arrangements, consistent with the requirements of Section 12 and Subsection 5 of this section, and shall require the group's obligations under fronting arrangements, including any obligations arising out of in-force policies, to be secured in the same manner and to the same confidence level as the group's direct obligations as a Maine self-insurer. Any security instrument, including an assumption reinsurance agreement issued in accordance with 39-A M.R.S. § 403(5)(D), shall include appropriate provision for payment of the group's obligations arising out of fronting arrangements. If the group is subject to a coverage state's requirements to provide and maintain additional security, the termination plan shall address those requirements.

Section 8. Sponsoring Reinsurance Account

1. If the assets of a participating group are inadequate to fully cover both the group's direct obligations under the terms of its fronting arrangement and any supplemental assessments levied pursuant to the fronting company's plan of operation and this rule to remedy a deficit in the fronting company's funding, the sponsoring reinsurance account's member groups are jointly and severally liable to remedy the resulting shortfall.

   A. A fronting company's sponsoring reinsurance account shall guarantee the obligations of its member groups to remedy any shortfall in funding if the assets of the participating group in any fronting arrangement are inadequate to cover the

fronting company's obligations arising out of that fronting arrangement, and shall assess its member groups in the proportions specified in the plan of operation.

B. Each member group shall execute an agreement acknowledging its joint and several liability under this subsection and agreeing to promptly pay any assessment levied under Paragraph A.

2. Unless the plan of operation provides an alternative oversight mechanism that the Superintendent has determined to be adequate, the sponsoring reinsurance account shall monitor the adequacy of the fronting company's funding and the participating groups' compliance with their obligations under Section 7, including the obligation to maintain the required minimum aggregate net worth.

3. If a participating group fails to fund or reimburse the fronting company's claims or expenses when due, or a member group fails to pay assessments when due, the sponsoring reinsurance account shall promptly report the default to the Superintendent. If the Superintendent determines that a terminated group's obligations arising out of fronting arrangements are no longer adequately secured, the Superintendent shall promptly report the deficiency to the sponsoring reinsurance account.

A. If a group has defaulted on its obligations as a participating group or member group, or a group or terminated group has failed to maintain adequate security for those obligations, sponsoring reinsurance account shall take appropriate measures to enforce the obligations of the group or the obligations of a terminated group's former member employers.

B. If collection efforts are unsuccessful or are delayed, the sponsoring reinsurance account shall assess other participating groups or member groups as provided in the plan of operation and 39-A M.R.S. § 403(4-A)(F)(1). While the resolution of a default is in process, the sponsoring reinsurance account may advance the funds out of its own resources to the extent necessary, accounting for the payment as required by Subsection 6, or may request payment of debts owed by the fronting company in accordance with Section 6(3)(B).

4. Any assessment obligations incurred by a member group under this section, and an appropriate reserve for future assessments when applicable, shall be included and itemized in the actuarial analysis and financial reports of the group.

5. If the sponsoring reinsurance account handles any funds on behalf of the fronting company, such funds are held in a fiduciary capacity, are not the property of the sponsoring reinsurance account, and shall be itemized separately in the sponsoring reinsurance account's financial reports.

6. The sponsoring reinsurance account's financial reports shall include and itemize all obligations arising out of its sponsorship of a fronting company. The account shall maintain an adequate reserve for those obligations, in addition to the reserves and surplus that the account is required to maintain pursuant to 39-A M.R.S. § 403(4-A), and the Superintendent shall require correction of any deficiency as provided in 39-A M.R.S. § 403(4-A)(E).

7. A sponsoring reinsurance account and its member groups shall promptly respond to all reasonable requests for information made by the Superintendent, and shall submit any reports reasonably required by the Superintendent in connection with the operations of the fronting company.

Section 9. Powers of the Superintendent

1. The Superintendent shall have the same power to examine a fronting company and other persons relevant to the examination as the Superintendent's power to examine or investigate a group self-insurer and other persons relevant to the examination under 39-A M.R.S. § 403(5)(I) and Bureau of Insurance Rule 250.

   A. To the extent that a group self-insurer would be responsible for comparable examination costs, the examination costs may be charged as general expenses of the fronting company.

   B. The Superintendent's powers to examine the sponsoring reinsurance account under 39-A M.R.S. § 403(4-A)(D), and to examine a participating group or other member group under 39-A M.R.S. § 403(5)(I) and Bureau of Insurance Rule 250, includes the power to examine all matters relevant to their obligations arising out of the operations of a fronting company.

2. If a fronting company, sponsoring reinsurance account, participating group, other member group, or member employer of a member group violates any applicable law of this State or any coverage state, any provision of this rule, any lawful order of the Superintendent, any conditions of approval or licensure, or any plan of operation or agreement entered into pursuant to this rule, the Superintendent may, as the Superintendent determines to be appropriate in light of the nature and severity of the violation:

   A. Exercise any enforcement powers as provided in 24-A M.R.S. § 12-A, including referral to the Attorney General for judicial enforcement;

   B. Suspend or revoke its status as a fronting company, sponsoring reinsurance .account. or participating group;

   C. Assume control of the fronting company's trust account as provided in Section 6(3)(D); or

   D. Apply for receivership of the sponsoring reinsurance account pursuant to 39-A M.R.S. § 403(4-A)(E)(3).

3. If the Superintendent determines that the continued transaction of business by the fronting company is currently or prospectively hazardous to policyholders, self-insurers, their employees, or the public, including a determination that there is a material risk that member groups will be unable to meet their obligations to support the fronting company, the Superintendent may issue corrective orders as provided in Rule Chapter 710.

Section 10. Termination of Approval

1. The Superintendent's approval of all fronting companies under this rule shall terminate on June 1, 2029, unless terminated earlier in accordance with this subsection. A fronting company requesting an earlier termination shall submit a proposed termination plan to the Superintendent and to the regulator with primary jurisdiction in each coverage state providing for the orderly termination of in-force policies and the continued funding and administration of all claims. The plan shall be approved if the Superintendent finds that it is consistent with applicable law and provides sufficient protection for policyholders, claimants, and the public.

2. The Superintendent may terminate a fronting company's approval if the Superintendent determines that:

   A. The fronting company is not operating in accordance with its plan of operation;

   B. The operations of the fronting company are adversely impacting the Bureau's compliance with financial accreditation standards of the National Association of Insurance Commissioners; or

   C. The fronting company is not meeting its legal or financial obligations and other remedial measures have failed or would be insufficient.

3. After termination of the fronting company's approval, all policies issued by the fronting company shall terminate on their respective anniversary dates unless the policy is terminated earlier, consistent with the law of the coverage state, by the terms of the policy or as ordered by the Superintendent. As provided in Section 12, groups and employers shall remain jointly and several liable for their obligations arising out of the fronting company's operations.

Section 11. Dissolution and Liquidation

1. A fronting company may enter into voluntary dissolution if the Superintendent finds that dissolution is in the best interest of policyholders, claimants, and the public. If the fronting company is solvent, a final distribution of surplus may be made in accordance with the fronting company's governing documents, but only after the Superintendent has determined that all liabilities have been fully discharged or have been transferred to a financially strong successor.

2. If the Superintendent determines that a fronting company is insolvent, or that its continued operation would be hazardous to its policyholders, their employees, or the public, the Superintendent may commence an action seeking the dissolution or liquidation of the fronting company.

3. If a fronting company's assets have been fully distributed in dissolution or liquidation, or otherwise exhausted, any remaining obligations shall become the direct obligations of its participating groups or their successors or guarantors.

4. The Maine Self-Insurance Guarantee Association and Maine Insurance Guaranty Association shall have no obligation to protect persons with claims against an insolvent

fronting company, and no person may represent that such protection is available. Whether protection is available from a guaranty association in a coverage state shall be determined solely under the laws of that state.

Section 12. Continuing Liability of Groups and Their Member Employers

The obligations under this rule of a participating group, member group, or their respective member employers to pay, fund, or guarantee the payment of claims and expenses or to pay or guarantee the payment of assessments, including all obligations that may subsequently arise relating to policies that have previously been issued or renewed by the fronting company, shall not be extinguished or diminished by any of the following events:

1. The dissolution or liquidation of a fronting company or the discharge, in bankruptcy or otherwise, of all or part of a fronting company's obligations;

2. The termination of a fronting company's approval under Section 10 or the termination of its eligibility to do business in one or more coverage states;

3. The dissolution of a reinsurance account or the termination of its status as a sponsoring reinsurance account; or

4. The termination of a group's status as a participating group or member group.

Section 13. Severability

If any section, term, or provision of this rule shall be deemed invalid for any reason, any remaining section, term, or provision shall remain in full force and effect.

Section 14. Effective Date

This rule is effective _____, 2024.