



Billing Code 4810-AS-P

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**[FISCAL-2019-0002]**

**RIN 1530-AA20**

**Surety Companies Doing Business With the United States; Request for Information**

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice of Request for Information; Request for Comment.

**SUMMARY:** The U.S. Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service) administers the corporate federal surety bond program (“the program”), under which Fiscal Service processes and evaluates applications from companies seeking to underwrite or reinsure federal surety bonds. Fiscal Service is considering modernizing and improving the program. To support this effort, Fiscal Service requests information from stakeholders on these topics, including views regarding the application process for certificates of authority, the data that Fiscal Service should consider, and the analytical methods it should use when evaluating an applicant’s financial condition.

**DATES:** Submit written comments on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by docket FISCAL-2019-0002, using the following methods:

- Federal eRulemaking Portal: (<http://www.regulations.gov>). Follow the instructions on the website for submitting comments.
- E-mail: [surety.bonds@fiscal.treasury.gov](mailto:surety.bonds@fiscal.treasury.gov). Include docket FISCAL-2019-0002 in the subject line of the message.
- Mail: Surety Bond Branch, Bureau of the Fiscal Service, 3201 Pennsy Drive, Building E, Landover, MD 20785.

Instructions: All submissions received must refer to Fiscal Service and docket number FISCAL-2019-0002. In general, comments received will be published on [www.regulations.gov](http://www.regulations.gov) without change, including any business or personal information provided. Do not disclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. Comments will not be edited to remove any identifying or contact information.

**FOR FURTHER INFORMATION CONTACT**: Melvin Saunders, at (202) 874-5283 or [melvin.saunders@fiscal.treasury.gov](mailto:melvin.saunders@fiscal.treasury.gov); or Dwayne Boothe, at (304) 480-5244 or [dwayne.boothe@fiscal.treasury.gov](mailto:dwayne.boothe@fiscal.treasury.gov).

**SUPPLEMENTARY INFORMATION**: Congress authorized the Secretary of the Treasury (the Secretary) in 31 U.S.C. §§ 9304-9305 to certify a surety company to do business with the United States if the Secretary determines that the company meets certain conditions and is able to carry out its contracts. The Secretary has delegated authority to Fiscal Service to administer the program.

Fiscal Service evaluates the financial condition of companies applying to be certified as a surety or as a reinsurer of federal surety bonds. Fiscal Service issues a

“certificate of authority” to approved companies. Under the program, Fiscal Service also evaluates companies applying for recognition as admitted reinsurers for excess risk that does not run to the United States. Fiscal Service has published its requirements for companies applying to underwrite or reinsure federal surety bonds and for companies applying to be recognized as admitted reinsurers at 31 CFR Part 223, and in annual letters posted to its website at [fiscal.treasury.gov/surety-bonds](http://fiscal.treasury.gov/surety-bonds). Fiscal Service publishes lists of companies receiving certificates of authority to underwrite or reinsure federal surety bonds, and of those companies recognized as admitted reinsurers, on its website annually. Once a company is certified to underwrite or reinsure federal surety bonds, it must submit quarterly financial reports to Fiscal Service demonstrating that the company remains in good financial standing.

Fiscal Service is exploring ways to modernize and improve how it evaluates the financial condition of companies seeking to underwrite and reinsure federal surety bonds or to act as admitted reinsurers, as well as its requirements for the application or renewal of certificates of authority. A number of changes in the regulation of the insurance industry that have an indirect effect on the program and companies applying for certification (or to be recognized as an admitted reinsurer) have taken place in the years since Fiscal Service last significantly updated the program’s regulatory requirements and its financial analysis methodology. For instance, the passage of the Nonadmitted and Reinsurance Reform Act of 2010 and the adoption by U.S. states of the 2011 amendments to the National Association of Insurance Commissioners’ Credit for Reinsurance Model Law and Model Regulation have impacted the form and extent of surety companies’ reliance on reinsurers not domiciled in the United States. In 2010,

Congress created the Federal Insurance Office (“FIO”) in the Department of the Treasury to, among other things, monitor and report on the regulation of the insurance industry. Additionally, pursuant to the authorities set forth in the Federal Insurance Office Act of 2010, the Department of the Treasury, led by the FIO, and the Office of the United States Trade Representative have negotiated a covered agreement with the European Union, providing for (among other things) the elimination of collateral requirements, under specified conditions, for reinsurers from EU member states assuming business from U.S. ceding insurers. While these and other developments are not the sole impetus for Fiscal Service’s consideration of modernizing and improving program requirements, the questions below should be viewed in light of these changes that have occurred in the regulation of the insurance industry. Throughout this process, Fiscal Service will consult and coordinate with FIO.

You are invited to answer the following questions and provide general comments on any other aspect of the program’s regulations and requirements. Please include in your comments how any recommended actions would protect the financial interests of the United States and otherwise improve the program.

**REQUEST FOR COMMENT:** While Fiscal Service is particularly interested in responses to the following questions, commenters may supply other information pertaining to Fiscal Service’s requirements not explicitly referenced below.

1. Should Fiscal Service consider changing the approach or methodology it uses to value the assets and liabilities of a company applying to be certified as an insurer or reinsurer, or to be recognized as an admitted reinsurer? In particular, please consider

commenting on the following items: (a) admissible versus non-admissible assets; (b) capital requirements; (c) underwriting limitation; and (d) comparison to requirements imposed by relevant regulatory authorities.

2. What different methodologies, if any, should Fiscal Service consider using when evaluating applications from companies that are part of an insurance group's pooling agreement? Please provide your views on whether Fiscal Service should analyze such applicants' financial condition at the group level rather than, or in conjunction with, analysis at the individual company level. Please address the benefits and risks to the federal government of performing the financial analysis at the group level.

3. Should Fiscal Service consider changing the approach or methodology it uses to determine the credit allowed for reinsurance and, if so, what changes should it consider? Please address both reinsurance of federal surety bonds and of non-federal risks, and provide the rationale for any proposed changes.

4. Should Fiscal Service consider changing any aspects of the approach or methodology it uses to determine recognition of a company as an admitted reinsurer? In your response, please address Fiscal Service's treatment of both domestic and alien reinsurers, and discuss the benefits and risks to the federal government of any proposed changes.

5. Should Fiscal Service consider changing the permissible methods, as described in the program's regulations and annual letters published on its website, for limiting risk in excess of a surety company's underwriting limitation? In your response, please address permissible methods for limiting risk in excess of the underwriting limitation

relative to both federal surety bonds and to non-federal risks.

6. Should Fiscal Service consider changing the schedule and the documentation required for issuing and renewing certificates of authority and, if so, what changes should it consider? As an example, but not a limitation on the scope of the foregoing question, should Fiscal Service consider issuing certificates of authority that are valid for more than one year based on a company's financial condition? Please address the benefits and risks to the federal government of implementing such proposed changes, including issuing certificates of authority that are valid for more than one year.

7. Please recommend any other revisions to the program regulations as addressed in 31 CFR Part 223 or the annual letters published on Fiscal Service's website that are consistent with protecting the federal government, and provide the rationale for those revisions.

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Timothy E. Gribben,  
Commissioner,  
Bureau of the Fiscal Service.  
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