

19-8.012 Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund due to Limited Exposure.

(1) Purpose. The purpose of this rule is to establish procedures to determine ineligibility for participation in the Florida Hurricane Catastrophe Fund (FHCF) and to establish procedures to determine whether an insurer may be exempted from subsections (4) and (5) of Section 215.555, F.S., because it has less than \$10 million in aggregate exposure for covered policies.

(2) Procedures to Determine Ineligibility for Participation in the FHCF.

(a) An insurer must apply for ineligibility from participation in the FHCF if it has surrendered its certificate of authority to write insurance in Florida. To apply, the insurer shall submit a written request for ineligibility stating that it will have no covered policies, as that term is defined in Section 215.555(2)(c), F.S., after May 31 of the year for which the ineligibility is sought and provide a copy of the Office of Insurance Regulation Order or letter, if any, surrendering or revoking the insurer's authority to write insurance in Florida. The request shall be sent to the FHCF Administrator.

(b) An insurer which is not surrendering its certificate of authority to write insurance in Florida must apply for ineligibility from participation in the FHCF if it no longer has any covered policies in force, as that term is defined in Section 215.555(2)(c), F.S. To apply, the insurer shall submit a written request for a determination regarding its ineligibility for participation. The request shall be sent, no later than September 1 of the current contract year, to the FHCF Administrator, and shall contain the following information:

1. A detailed explanation of any premium appearing on the insurer's Florida Exhibit of Premiums and Losses of the National Association of Insurance Commissioners annual statement for lines of business which may contain covered policies as defined by Section 215.222(2)(c), F.S.

2. A copy of the insurer's Exhibit of Premiums and Losses of the annual statement, required by Section 624.424, F.S., and any rules adopted thereunder, for the State of Florida for the applicable year.

3. Form FHCF-E1, "Statement related to Covered Policies as defined in Section 215.555(2)(c), F.S., <http://www.flrules.org/Gateway/reference.asp?No=Ref-18204>" rev. 07/25, signed by two executive officers attesting to the fact that the insurer writes no covered policies. Form FHCF-E1 is hereby adopted and incorporated by reference into this rule. The form may be obtained from the FHCF website at <https://fhcf.sbafla.com>.

(c) The State Board of Administration of Florida ("SBA") shall review the information received pursuant to paragraph (a) or (b), above.

1. If the SBA determines that the insurer writes covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and must therefore participate in the FHCF as required by Section 215.555(4)(a), F.S., the SBA will notify the insurer that its request has been denied. All insurers determined to be participants in the FHCF will be required to enter into a reimbursement contract with the SBA and will be subject to all premium payments and interest thereon, as well as fees for inadequate exposure data.

2. If the SBA determines that the insurer does not write covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., the SBA will notify the insurer that its request has been approved. This ineligibility continues until the insurer once again begins writing covered policies. The insurer must immediately notify the SBA if it begins writing covered policies.

(d) Any Company granted ineligibility status which fails to execute and return the reimbursement contract to the FHCF within thirty days of writing its first covered policy following the grant of ineligibility status shall not be eligible for reimbursement for any covered losses from a covered event occurring prior to the receipt by the FHCF of the executed reimbursement contract.

(3) Procedures to Determine Exemption from the FHCF Due to Limited Exposure.

(a) A current participant requesting exemption from participation in the FHCF because its exposure for covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., is less than \$10 million in the aggregate shall submit a written request for a determination regarding such an exemption no later than September 1 of the current contract year.

(b) If requested within thirty days of writing its first covered policy, a new participant, as defined in Article V of the reimbursement contract, may request exemption if its exposure is less than \$10 million in the aggregate and is expected to remain less than \$10 million in the aggregate for the remainder of the contract year.

(c) The request shall be emailed to the FHCF Administrator. The insurer shall submit the following information no later than September 1 of the current contract year:

1. A detailed explanation of any premium appearing on the insurer's Florida Exhibit of Premiums and Losses of the National Association of Insurance Commissioners annual statement for lines of business which may contain covered policies.

2. A copy of the insurer's Exhibit of Premiums and Losses of the annual statement, required by Section 624.424, F.S., and any rules adopted thereunder, for the State of Florida for the applicable year.

3. Form FHCF-E2, "Information regarding De Minimis FHCF Covered Policies In-force at June 30, _____, <http://www.flrules.org/Gateway/reference.asp?No=Ref-18205>" rev. 07/25. Form FHCF-E2 is hereby adopted and incorporated by reference into this rule. The form may be obtained from the FHCF website at <https://fhcf.sbafla.com>.

4. Form FHCF-E3, "Statement related to De Minimis Aggregate Exposure for Covered Policies as defined in Section 215.555(2)(c), F.S., on behalf of _____, <http://www.flrules.org/Gateway/reference.asp?No=Ref-18206>" rev. 07/25, signed by two executive officers attesting to the fact that the insurer writes no covered policies with an aggregate exposure of \$10 million or more. Form FHCF-E3 rev. 05/08, is hereby adopted and incorporated by reference into this rule. The form may be obtained from the FHCF website at <https://fhcf.sbafla.com>.

(d) The SBA shall review the information received pursuant to paragraph (c), above.

1. If the SBA determines that the insurer has an aggregate exposure of \$10 million or more for covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and must therefore participate in the FHCF as required by Section 215.555(4)(a), F.S., because it does not qualify for the exemption permitted by Section 215.555(3), F.S., the SBA will notify the insurer that its request has been denied. All insurers determined to be participants in the FHCF will be required to enter into a reimbursement contract with the SBA and will be subject to all premium payments and interest thereon, as well as fees for inadequate exposure data.

2. If the SBA determines that the insurer has an aggregate exposure of less than \$10 million for covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and that granting the exemption will not adversely affect the actuarial soundness of the FHCF, the SBA will notify the insurer that its request has been approved and note that the insurer must immediately notify the SBA if its exposure becomes \$10 million or more in the aggregate. If this occurs, the insurer will be treated as a "new participant" and subject to the requirements of Article X(1) and X(2) of the FHCF Reimbursement Contract.

(e) The exemption for minimal exposure permitted by Section 215.555(3), F.S., is optional for the insurer but, once the exemption is requested, cannot be withdrawn by the insurer. An insurer with less than \$10 million in aggregate exposure for covered policies is not required to ask for an exemption from the FHCF. Such an insurer may continue to participate in the FHCF if it so desires. An insurer which has been granted an exemption from the FHCF may request to be reinstated in the FHCF as a participating member. However, such a request must be made prior to June 1 of a contract year. No insurer which has been granted an exemption under this subsection shall be reinstated during the Atlantic Hurricane Season, which begins June 1 and ends November 30 of each year, so long as its aggregate exposure remains below \$10 million.

(f) The exemptions for minimal exposure permitted by Section 215.555(3), F.S., shall not be granted by the SBA if the aggregate number of anticipated exemptions adversely affects the actuarial soundness of the FHCF.

(g) Any Company granted de minimis exempt status which fails to execute and return the reimbursement contract to the FHCF within thirty days of writing a covered policy that results in the insurers aggregate covered exposure exceeding \$10 million shall not be eligible for reimbursement for any covered losses occurring from a covered event prior to the receipt by the FHCF of the executed reimbursement contract.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2)(c), (3), (4), (5) FS. History—New 2-17-97, Amended 6-2-02, 5-13-03, 5-19-04, 5-29-05, 5-10-06, 6-8-08, 3-30-09, 3-29-10, 8-8-10, 7-31-25.