updated from time to time to meet changing conditions in the industry.

[42 FR 8637, Feb. 11, 1977]

§ 223.8 Financial reports.

(a) Every such company will be required to file with the Assistant Commissioner, Comptroller on or before the last day of January of each year, a statement of its financial condition made up as of the close of the preceding calendar year upon the annual statement blank adopted by the National Association of Insurance Commissioners, signed and sworn to by its president and secretary.

On or before the last days of April, July and October of each year, every such company shall file a financial statement with the Assistant Commissioner, Comptroller as of the last day of the preceding month. A form is prescribed by the Treasury for this purpose. The quarterly statement form of the National Association of Insurance Commissioners when modified to conform to the Treasury's requirements, may be substituted for the Treasury's form. The quarterly statement will be signed and sworn to by the company's president and secretary or their authorized designees.

(b) Every such company shall furnish such other exhibits or information, and in such manner as the Secretary of the Treasury may at any time require.

[10 FR 2348, Mar. 1, 1945, as amended at 42 FR 8637, Feb. 11, 1977; 49 FR 47002, Nov. 30, 1984]

§ 223.9 Valuation of assets and liabilities.

In determining the financial condition of every such company, its assets and liabilities will be computed in accordance with the guidelines contained in the Treasury's current Annual Letter to Executive Heads of Surety Companies. However, the Secretary of the Treasury may value the assets and liabilities of such companies in his discretion. Credit will be allowed for reinsurance in all classes of risks if the reinsuring company holds a certificate of authority from the Secretary of the Treasury, or has been recognized as an admitted reinsurer in accord with § 223.12.

[42 FR 8637, Feb. 11, 1977]

§ 223.10 Limitation of risk.

Except as provided in § 223.11, no company holding a certificate of authority shall underwrite any risk on any bond or policy on behalf of any individual, firm, association, or corporation, whether or not the United States is interested as a party thereto, the amount of which is greater than 10 percent of the paid-up capital and surplus of such company, as determined by the Secretary of the Treasury. That figure is hereinafter referred to as the underwriting limitation.

[34 FR 20188, Dec. 24, 1969]

§ 223.11 Limitation of risk: Protective methods.

The limitation of risk prescribed in § 223.10 may be complied with by the following methods:

(a) *Coinsurance.* Two or more companies may underwrite a risk on any bond or policy, the amount of which does not exceed their aggregate underwriting limitations. Each company shall limit its liability upon the face of the bond or policy, to a definite specified amount which shall be within its underwriting limitation.

(b) *Reinsurance.* (1) In respect to bonds running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond with one or more companies holding a certificate of authority from the Secretary of the Treasury. Such reinsurance shall not be in excess of the underwriting limitation of the reinsuring company. Where reinsurance is contemplated, Federal agencies may accept a bond from the direct writing company in satisfaction of the total bond requirement even though it may exceed the direct writing company's underwriting limitation. Within the 45 day period, the direct writing company shall furnish to the Federal agency any necessary reinsurance agreements. However, a Federal agency may, at its discretion, require that reinsurance be obtained within a lesser period than 45 days, and may require completely executed reinsurance agreements in hand before making a final determination that any bond is acceptable. Reinsurance may protect

bonds required to be furnished to the United States by the Miller Act (40 U.S.C. 270a through 270d) covering contracts for the construction, alteration, or repair of any public building or public work of the United States, as well as other types of Federal bonds. Use of reinsurance or coinsurance to protect such bonds is at the discretion of the direct writing company. Reinsurance shall be executed on reinsurance agreement forms (Standard Form 273 for Miller Act Performance bonds (formerly form No. TFS 6317), Standard Form 274 for Miller Act Payment bonds (formerly form No. TFS 6318), and Standard Form 275 for other types of Federal bonds (formerly form No. TFS 6319)). Federal bond-approving officers may obtain the forms by submitting a requisition in FEDSTRIP/MILSTRIP format to the General Services Administration regional office providing support to the requesting Government organization. In addition, the forms are available to authorized sureties and reinsurers from the Superintendent of Documents, Government Printing Office, Stop: SSMC, Washington, DC 20402.

(2) In respect to risks covered by bonds or policies not running to the United States, liability in excess of the underwriting limitation shall be reinsured within 45 days from the date of execution and delivery of the bond or policy with:

(i) One or more companies holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds or one or more companies holding a certificate of authority as an acceptable reinsuring company on such bonds, or

(ii) One or more companies recognized as an admitted reinsurer in accord with § 223.12, or

(iii) A pool, association, etc., to the extent that it is composed of such companies, or

(iv) An instrumentality or agency of the United States which is permitted by Federal law or regulation to execute reinsurance contracts.

(3) No certificate-holding company may cede to a reinsuring company recognized under § 223.12 any risk in excess of 10 percent of the latter company's paid-up capital and surplus.

(c) *Other methods*. In respect to all risks other than Miller Act performance and payment bonds running to the United States, which must be coinsured or reinsured in accord with paragraph (a) or (b)(1) of this section respectively, the excess liability may otherwise be protected:

(1) By the deposit with the company in pledge, or by conveyance to it in trust for its protection, of assets admitted by the Treasury the current market value of which is at least equal to the liability in excess of its underwriting limitation, or

(2) If such obligation was incurred on behalf of or on account of a fiduciary holding property in a trust capacity, by a joint control agreement which provides that the whole or a sufficient portion of the property so held may not be disposed of or pledged in any way without the consent of the insuring company.

[34 FR 20188, Dec. 24, 1969, as amended at 40 FR 6499, Feb. 12, 1975; 41 FR 10605, Mar. 12, 1976; 42 FR 8637, Feb. 11, 1977; 43 FR 39089, Sept. 1, 1978]

§ 223.12 Recognition as reinsurer.

(a) *Application by U.S. company*. Any company organized under the laws of the United States or of any State thereof, wishing to apply for recognition as an admitted reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States, shall file the following data with the Assistant Comptroller for Auditing and shall transmit therewith the fee in accordance with the provisions of § 223.22(a)(2):

(1) A certified copy of its charter or articles of incorporation, and

(2) A certified copy of a license from any State in which it has been authorized to do business, and

(3) A copy of the latest available report of its examination by a State Insurance Department, and

(4) A statement of its financial condition, as of the close of the preceding calendar year, on the annual statement form of the National Association of Insurance Commissioners, signed and sworn to by two qualified officers of the company, showing that it has a capital stock paid up in cash of not less