

### **19-8.030 Insurer Responsibilities.**

(1) Section 215.555(10), F.S., provides that any violation of any provision of Section 215.555, F.S., or of any rule adopted under Section 215.555, F.S., constitutes a violation of the Florida Insurance Code.

(2) Purpose. The purpose of this rule is to clearly establish certain deadlines and other requirements for insurers required to participate in the Florida Hurricane Catastrophe Fund (Fund or FHCF). It is not the intent or purpose of this rule to address every requirement of Participating Insurers which could result in a referral to the Florida Department of Financial Services.

(3) Definitions. The terms defined below will be capitalized in this rule.

(a) Authorized Insurer means an insurer as defined in Section 624.09(1), F.S. and includes Citizens Property Insurance Corporation and any joint underwriting association or similar entity created pursuant to Section 627.351, F.S.

(b) Board or SBA means the State Board of Administration of Florida.

(c) Fund or FHCF means the Florida Hurricane Catastrophe Fund established pursuant to Section 215.555, F.S.

(d) Citizens Property Insurance Corporation or Citizens means the entity formed under Section 627.351(6), F.S., and includes both the Coastal Account and the Personal Lines and Commercial Lines Accounts.

(e) Contract Year means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year.

(f) A Covered Event or Event is a hurricane as defined in Section 215.555(2)(b), F.S., and in Article V of the Reimbursement Contract adopted and incorporated by reference in Rule 19-8.010, F.A.C.

(g) Covered Policy. This term is defined in Section 215.555(2)(c), F.S., and the Reimbursement Contract adopted by and incorporated into Rule 19-8.010, F.A.C.

(h) Department means the Florida Department of Financial Services.

(i) Data Call or Florida Hurricane Catastrophe Fund Data Call means the annual reporting of insured values form FHCF-D1A as adopted and incorporated into Rule 19-8.029, F.A.C.

(j) Office of Insurance Regulation means that office within the Department of Financial Services and which was created in Section 20.121(3), F.S.

(k) Participating Insurer, Insurer or Company means an insurer which writes Covered Policies in this state and which has entered into a Reimbursement Contract with the Board, pursuant to Section 215.555(4)(a), F.S.

(l) Reimbursement Contract or Contract means the statutorily required annual contract which provides coverage to Participating Insurers for losses to covered property during a Covered Event.

(m) Reimbursement Premium or Premium means the premium determined by multiplying each \$1,000 of insured value reported by the Company in accordance with Section 215.555(5), F.S., by the rate as derived from the premium formula as described in Rule 19-8.028, F.A.C.

(n) Quota Share Primary Insurance Arrangement is defined in Section 627.351(6)(c)2.a.(I), F.S.

(4) Reimbursement Contract.

(a) Current Participants: The Reimbursement Contracts are annual contracts.

1. For the 2010/2011 and earlier Contract Years, each Insurer required to participate in the FHCF must designate a coverage level in the annual Reimbursement Contract, make any required selections therein and execute the Reimbursement Contract and applicable Addenda so that the Contract, including the schedules and applicable Addenda, have been received by June 1 of each Contract Year.

2. For the 2011/2012 and subsequent Contract Years, each Insurer required to participate in the FHCF must designate a coverage level in the annual Reimbursement Contract, make any required selections therein and execute the Reimbursement Contract and applicable Addenda so that the Contract, including the schedules and applicable Addenda, have been received by March 1 prior to each Contract Year.

(b) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year are "New Participants." New Participants must designate a coverage level in the annual Reimbursement Contract, make any required selections therein, and execute the Contract and applicable Addenda simultaneously with issuing the first Covered Policy. The completed and executed Reimbursement Contract, including all required selections, schedules and applicable Addenda, must be returned no later than 30 days after the effective date of the first Covered Policy.

(c) New Participants during the period of December 1 through May 31: Those Insurers that first begin writing Covered Policies

from December 1 through May 31 of a Contract Year, along with the Insurers described in paragraph (b) immediately above, are New Participants. However, these Insurers shall not complete and submit the Data Call but shall meet all other requirements for New Participants.

(d) Optional coverages authorized by law must be chosen by current participants by executing and returning the applicable Addenda to the Reimbursement Contract of the relevant Contract Year by the date required. New Participants choosing optional coverage must execute and return the applicable Addenda to the Reimbursement Contract for the relevant Contract Year prior to the time in which a covered loss occurs and within 30 days of writing its first covered policy. Any current or New Participant failing to meet these deadlines shall not be eligible for such optional coverage.

(5) Exposure Reporting Requirements.

(a) Quota Share Primary Insurance: Citizens and Authorized Insurers may enter into Quota Share Primary Insurance Arrangements with respect to the Coastal Account policies. The statute also provides, in Section 627.351(6)(c)2.a.(II), F.S., that Citizens shall be responsible for the annual reporting of insured values to the FHCF for both Citizens and the Insurer participating with Citizens in the Quota Share Arrangement. Citizens shall report the insured values covered by the Quota Share Primary Insurance Arrangements in the same manner that all other current participants, as described in paragraph (b) below, report their insured values. Please note that both Citizens and the Quota Share Primary Insurer must keep complete and accurate records, including copies of policy declaration pages and supporting claims documents, for the purpose of exposure and loss reimbursement examinations by the FHCF.

(b) Current Participants: Each Insurer, with Covered Policies as of June 1 of a Contract Year must participate in the FHCF and must complete and submit the Data Call, correctly completed, no later than September 1 of the Contract Year.

(c) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year must complete and submit the Data Call, correctly completed, by March 1 of the Contract Year.

(d) Resubmissions of Data: With one exception noted below, any Insurer which submits a Data Call with incorrect data, incomplete data, or data in the wrong format and is required to resubmit will be given 30 days from the date on the letter from the FHCF notifying the Insurer of the need to resubmit. An extension of 30 days will be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the Insurer. Exception: If the Insurer, at the time it receives notice of the need to resubmit, has already been issued a notice of examinations, the usual 30 day time limitation (measured from the date of the letter giving notice of the need to resubmit) does not apply. In this situation, the time period in which the Insurer must resubmit is measured by counting backwards 30 days from the date that the examinations are scheduled to begin as reflected on the notice of examinations letter. The FHCF needs the information prior to the examinations; thus, no extensions can be granted.

(6) Premiums.

(a) Current Participants: Premium installments for Current Participants are due on August 1, October 1, and December 1. Premium adjustments are due as indicated on the invoice sent to the Insurer. Premiums paid to the FHCF with reference to property covered by Quota Share Primary Insurance Arrangements, as authorized and defined in Section 627.351(6)(c)2.a.(I), F.S., will be allocated by the FHCF between the Insurer and Citizens in accordance with the percentages specified in the Quota Share Primary Insurance Arrangement.

(b) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year must submit a payment of \$1,000 on or before the date indicated on the invoice. Once a New Participant's Data Call, which is filed on or before March 1 of the Contract Year, has been reviewed by the Administrator and the Company's actual Reimbursement Premium has been determined on its actual exposure, an invoice with the amount due, if any, will be sent to the Company by the Administrator. Payment, if any amounts are shown as due on the invoice, is due within 30 days from the date on the invoice. In no event will the Premium be less than the \$1,000.

(c) New Participants during the period of December 1 through May 31: Those Insurers that first begin writing Covered Policies from December 1 through May 31 of a Contract Year shall pay a \$1,000 Premium within 30 days from the date on the invoice sent to the Insurer by the FHCF.

(d) With respect to any Company where control of the Company has been transferred through any legal or regulatory proceeding to a state regulator or court appointed receiver or rehabilitator, or the Company has been placed under regulatory supervision, prior to December 1 of the Contract Year, the full annual provisional Reimbursement Premium as billed and any outstanding balances will be due on August 1, or the date that control is transferred if after August 1.

(7) Examination Requirements. A Company is required to prepare and retain an examination file in accordance with the specifications outlined in the Data Call instructions and a detailed claims listing to support losses reported on the Proof of Loss Report. Such records must be retained until the FHCF has completed its examination of a Company's exposure submission and any loss reports applicable to the Data Call Contract Year and commutation for the Contract Year (if applicable) has been concluded. The records provided for examination must be from the examination file as originally prepared unless a subsequent resubmission was sent to the FHCF. Note that both Citizens and Insurers participating in Quota Share Primary Insurance Arrangements must keep complete and accurate records, including copies of policy declaration pages and supporting claims documents, for the purpose of exposure and loss reimbursement examinations by the FHCF.

(a) Advance Examination Record Requirements: Within 30 days from the date on the letter from the FHCF, Companies are required to provide the FHCF with the records indicated in the applicable Contract Year's "Exposure Examination Advance Preparation Instructions" or in the applicable Contract Year's "Loss Reimbursement Examination Advance Preparation Instructions". An extension of 30 days may be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the Insurer.

1. For the 2004/2005 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Audit – Contract Year 2004 Advance Preparation Instructions," FHCF-API, rev. 5/04. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2004 Advance Preparation Instructions," FHCF-LAP1, 05/06.

2. For the 2005/2006 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2005 Advance Preparation Instructions," FHCF-API, rev. 5/05. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2005 Advance Preparation Instructions," FHCF-LAP1, rev. 05/07.

3. For the 2006/2007 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2006 Advance Preparation Instructions," FHCF-EAP1, rev. 5/06. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/06.

4. For the 2007/2008 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2007 Advance Preparation Instructions," FHCF-EAP1, rev. 05/07. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/07.

5. For the 2008/2009 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2008 Advance Preparation Instructions," FHCF-EAP1, rev. 05/08. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/08.

6. For the 2009/2010 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2009 Advance Preparation Instructions," FHCF-EAP1, rev. 05/09. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/09.

7. For the 2010/2011 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2010 Advance Preparation Instructions," FHCF-EAP1, rev. 05/10. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2010 Advance Preparation Instructions," FHCF-LAP1, rev. 05/10.

8. For the 2011/2012 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2011 Advance Preparation Instructions," FHCF-EAP1, rev. 01/11, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00416>. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2011 Advance Preparation Instructions," FHCF-LAP1, rev. 01/1, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00417>.

9. For the 2012/2013 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2012 Advance Preparation Instructions," FHCF-EAP1, rev. 01/12. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2012 Advance Preparation Instructions," FHCF-LAP1, rev. 01/12.

10. These forms are hereby adopted and incorporated by reference into this rule. Copies of these forms may be obtained from the FHCF website, [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf) or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, Florida 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308.

(b) On-site Examination Record Requirements: The FHCF-EAP1, "Exposure Examination Advance Preparation Instructions" form and the FHCF-LAP1, "Loss Reimbursement Examination Advance Preparation Instructions" form each contain a list of the information that the Companies must have available, on-site, on the date the exposure or loss examination is to begin. These records must be made available to the FHCF examiner upon request.

(c) Response to the FHCF Examination Report: Within 30 days from the date of the letter accompanying the examination report, a Company must provide a written response to the FHCF. The response must indicate whether the Company agrees with the recommendation of the examination report. If the Company disagrees with the examination findings, the reason for the disagreement will be outlined in the response and the Company will provide supporting information to support its objection. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(d) Resubmissions as a Result of a Completed Examination: A Company required to resubmit exposure data as a result of the examination must do so within 30 days of the date on the letter from the FHCF notifying the Company of the need to resubmit. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(8) Loss Reporting. Participating Insurers are required to file the following two types of loss reports at the times prescribed in Rule 19-8.029, F.A.C. Form FHCF-L1A, "Florida Hurricane Catastrophe Fund Interim Loss Report," for the applicable Contract Year and Form FHCF-L1B, "Florida Hurricane Catastrophe Fund Proof of Loss Report," for the applicable Contract Year as adopted in Rule 19-8.029, F.A.C.

(a) These forms are hereby adopted and incorporated by reference into this rule and may be obtained from the Fund's Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, Minnesota 55437.

(b) Companies must submit a detailed claims listing (in a delimited ASCII format) to support the losses reported in the FHCF-L1B, Proof of Loss Report, at the same time it submits its first Proof of Loss Report for a specific Covered Event that qualifies the Company for reimbursement under that Covered Event, and should be prepared to supply a detailed claims listing for any subsequent Proof of Loss Report upon request. Refer to Form FHCF-LAP1 for the required file layout. The Proof of Loss Report and the detailed claims listing are required to be sent to the FHCF Administrator, Paragon Strategic Solutions Inc., at the address listed above. If your Company submits its Proof of Loss Reports electronically through the FHCF's Online Claims System at [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf), the detailed claims listing may be attached to the Company's submission.

(9) Penalties and Additional Charges. The Participating Insurers' responsibilities outlined in this rule are not an exhaustive list and Section 215.555, F.S., and other rules promulgated under that section may outline additional responsibilities or deadlines. The failure by a Participating Insurer to meet any of the deadlines or responsibilities outlined in this rule, Section 215.555, F.S., or any other rule applicable to the FHCF constitute a violation of the Florida Insurance Code. In the event of a violation, in addition to the consequences outlined below, the FHCF may notify the Office of Insurance Regulation of the violation. The Office of Insurance Regulation may take whatever action it deems appropriate in addressing the violation.

(a) Resubmissions of Data: A \$1,000 resubmission fee (for resubmissions that are not the result of an examination by the SBA) will be invoiced by the FHCF for each submission. If a resubmission is necessary as a result of an examination report issued by the SBA, the resubmission fee will be \$2,000. If a Company's examination-required resubmission is inadequate and the SBA requires an additional resubmission(s), the resubmission fee for each subsequent resubmission shall be \$2,000.

(b) Premiums and Other Payments: All late payments of Premium, including Premium adjustments, due to the FHCF from an Insurer are subject to interest.

(c) Consequences for Failure to meet the requirements contained in the FHCF-EAP1, "Exposure Examination Advance Preparation Instructions," the FHCF-LAP1, "Loss Reimbursement Examination Advance Preparation Instructions," or the on-site examination record requirements in a timely manner: In addition to other penalties or consequences, the FHCF has the authority, pursuant to Section 215.555(4)(f), F.S., to require that the Insurer pay for the following services under the circumstances outlined below:

1. If an examination is delayed, cannot be conducted as scheduled or cannot be completed and the Insurer is responsible for such, the Insurer shall be required to reimburse the FHCF for all the usual and customary expenses connected to such delay,

cancellation or incompleteness.

2. If the FHCF finds any Insurer's records or other necessary information to be inadequate or inadequately posted, recorded, or maintained, the FHCF may employ experts to reconstruct, rewrite, record, post, or maintain such records or information, at the expense of the Insurer being examined.

3. An Insurer required to reimburse the FHCF for costs as outlined in subparagraphs 1. and 2. immediately above, will owe interest on the amount owed to the FHCF from the date the FHCF pays such expenses until the date payment from the Insurer is received. The applicable interest rate will be the average rate earned by the SBA for the FHCF for the first four months of the current Contract Year plus 5%. Also, the payment of reimbursements or refunds by the FHCF to any Insurer will be offset by any amounts owed by that Insurer to the FHCF.

(10) Time Deadlines: If any deadline provided for herein falls on a Saturday, Sunday or on a legal holiday, then the applicable due date will be the first business day immediately following the Saturday, Sunday or legal holiday.

(11) Company Contact Information: Companies must submit Form FHCF C-1, Company Contact Information, as adopted and incorporated into Rule 19-8.029, F.A.C., by June 1 of each Contract Year to the FHCF Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, Minnesota 55437. This form must be updated by the Company as the information provided thereon changes. The FHCF shall have the right to rely upon the information provided by the Company to the FHCF on this form until receipt by the FHCF of a new properly completed and notarized FHCF C-1 from the Company.

*Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-13-03, Amended 5-19-04, 5-29-05, 5-10-06, 5-8-07, 8-13-07, 6-8-08, 3-30-09, 3-29-10, 8-8-10, 7-20-11, 5-22-12.*