

March 24, 2008

Michael Vild, Chairman  
Restructuring Mechanisms for Troubled  
Companies (E) Subgroup

Dear Mr. Vild:

Thank you for the opportunity to provide comment on topics to be addressed in the proposed white paper on alternative restructuring mechanisms for troubled insurance companies.

The National Conference of Insurance Guaranty Funds (NCIGF) is a non-profit organization composed of the state property and casualty insurance guaranty associations. We support our member guaranty funds in meeting their immediate and future statutory obligations to policyholders and claimants of insolvent insurers executed through the prompt payment of covered policy claims.

The NCIGF's comments are based on the proposition that the primary public policy purpose of any insolvency scheme, whether it takes the form of liquidation or some other mechanism, should remain protection of the public from excessive financial loss due to the insolvency of insurance companies.

With this in mind, we recommend that a study of alternative restructuring mechanisms for troubled companies address the following issues in addition to those identified in the Subgroup's "Call for Comment" memorandum:

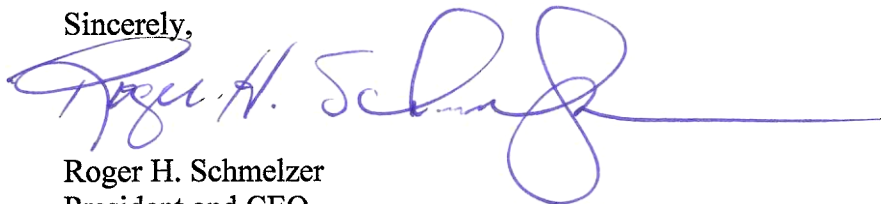
1. One of the key consumer protections in the existing state liquidation scheme are the priority distribution statutes that require payment of policyholder level claims before the payment of any other claimants including non-policy claims of the United States government, claims of other insurers and reinsurers, and general creditors. These same priority distribution statutes also require members of the same class or group of creditors to be treated similarly. The priority distribution statutes assure that the needs of consumers, who are generally not sophisticated in insurance matters, are placed ahead of non-policyholder level claimants and that everyone with the same level or type of claim is treated the same. How and to what extent would this consumer protection be maintained under the various alternate mechanisms? If these protections were not maintained, what are the public policy objectives supporting such a change?

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2. How will the average consumer fare in an alternative restructuring mechanism as compared to a traditional liquidation in the following areas:
  - Timeliness of payment
  - Receipt of full benefit of their insurance contract
  - Fair treatment in the claims settlement process
  - Availability of a meaningful claims appeal process
3. Should alternative restructuring mechanisms be designed to assure that consumers fare at least as well as they would in a liquidation? If so, what administrative and procedural mechanisms will be implemented?
4. Will the proposed restructuring mechanism(s) create a process to assure prompt distribution of assets to policyholder level claimants?
5. Should alternative structuring mechanisms be required to maintain existing NAIC financial annual and quarterly reporting or, if not, what method of reporting will allow sufficient transparency for policyholders, claimants and stakeholders? Should the reporting method be standardized for all companies utilizing the restructuring mechanism?
6. Do any of the proposed restructuring mechanisms create a potential conflict of interest between the commissioner's role as the primary insurance regulator and his role as the overseer of the restructuring mechanism? More succinctly, can the regulator fulfill his statutory duty to protect consumers from improper claims practices while he is also charged with the negotiation and settlement of policy claims on behalf of a troubled insurer?

NCIGF appreciates the opportunity to participate in this important public discussion and stands ready to assist the Subgroup in any way we can. Please contact me with any questions or comments.

Sincerely,



Roger H. Schmelzer  
President and CEO