» Insolvency
TRENDS Summer 2012

National Conference of Insurance Guaranty Funds NCIGF

A biannual publication providing updates on recent property and casualty insolvencies and public policy developments

GUARANTY FUNDS WORK

in partnership with insurance regulators to protect policyholders.

A state court finds an insurance company insolvent and orders it liquidated.

Policyholder claims files are transferred to the guaranty funds for servicing.

Covered claims are paid from a pool of money drawn from three sources made available at the time of the insolvency: a) the insolvent insurance company's remaining assets, b) statutory deposits collected in certain states and c) assessments on insurers licensed to write business in a state.

Payments are made promptly.

HOW THE GUARANTY FUND SYSTEM IS FUNDED

Recoveries

To the extent possible to fulfill guaranty fund statutory duties, monies are obtained from remaining estate assets.

- The insurance company's remaining assets (including reinsurance)
- Statutorily mandated deposits collected in certain states while the company is still writing business

Assessments from Insurers

Charged to insurance companies licensed to write business in a state

- Typical cap is 2% of "net direct written premium"
- Assessment is determined by the amount of money needed by the guaranty fund to supplement the funding pool described above
- Some guaranty funds have separate "assessment accounts" allowing them to segregate assessment billing and payments into various lines of business—a typical structure would be workers compensation, auto, and all other property & casualty lines covered by the funds

Welcome to the 2012 summer issue of the National Conference of Insurance Guaranty Funds' (NCIGF) *Insolvency Trends*. Authored by the legal and public policy staff of the NCIGF, this paper provides an update on recent events in insolvency law and practice and a look ahead at what is on the horizon in the coming year.

SEE INSIDE FOR…

- **Updates on Dodd-Frank and other developments on Capitol Hill – and how they impact the state-based insolvency system**
- **Insurance insolvency developments – new liquidations this year – and a status of estates**
- **Developments in state laws**
- **Runoffs of troubled companies**
- **International developments**

PROPERTY AND CASUALTY GUARANTY FUNDS: CONTINUING TO EVOLVE TO PROTECT POLICYHOLDERS

The guaranty fund system was established in 1969 by the property and casualty insurance industry, insurance regulators and states to provide a safety net that protects insurance consumers if an insurance company fails. The guaranty fund system is an innovative and common-sense mechanism. The system draws first on the assets of the failed insurance company before turning to assessments of healthy insurers in each state. Since inception the system has paid out more than $27 billion to policyholders, beneficiaries and claimants related to more than 550 insolvencies.

Following liquidation, the statutorily created guaranty funds seamlessly step into the shoes of a defunct company and pay the covered claims of policyholders and claimants whose claims otherwise would go unpaid by an insolvent insurance company.

Today, the guaranty fund system remains true to its original intent: delivering protection to those least able to weather the impact of insurance company insolvencies.

DODD-FRANK, THE FDIC AND RESOLUTION OF SYSTEMICALLY IMPORTANT FINANCIAL COMPANIES

Enacted in 2010, the Dodd-Frank Act creates a new system for regulating large, interconnected bank holding companies and nonbank financial companies whose distress or failure could threaten the financial stability of the United States.

The law calls for large, interconnected financial companies that are systemically important to be identified by the Financial Stability Oversight Council (FSOC) chaired by Treasury Secretary Timothy Geithner. Systemically important financial companies could include insurance companies and insurance holding companies, although most observers contend that few – if any – insurers are systemically significant. Once identified, these companies will be subject to stringent regulation by the Federal Reserve Board.

The legislation also creates a new mechanism for liquidating systemically important financial companies whose failure could destabilize the economy. **While the Federal Deposit Insurance Corporation (FDIC) will be appointed receiver of – and will liquidate – most types of financial companies, insolvent insurers (including any deemed systemically important) will remain subject to state receivership and guaranty association processes.**

Resolution of systemically important financial companies (SIFIs) will be funded by a post-liquidation resolution fund. If any insurers are tapped to contribute to such a fund, the amount of their contributions will take into account guaranty fund assessments already paid.

Even though insurer insolvencies will be conducted under state law, the FDIC could be appointed receiver of certain subsidiaries of an insurance company if those companies are in default or in danger of default, if their failure would have a significant adverse effect on the U.S. economy and other criteria are met. Any value remaining after claims are paid would be paid to the parent company.

FDIC GRAPPLES WITH NEW POWERS AND RESPONSIBILITIES

Dodd-Frank provided important new authorities to the FDIC to resolve SIFIs. The FDICs authority previous to Dodd-Frank was limited to federally insured banks and thrift institutions. The authority to put a holding company or affiliates of an insured institution or any other non-bank financial company is now available to avoid systemic consequences of such a failure. The FDIC is now grappling with developing the operational capability to utilize this authority effectively and creating a credible strategy under which an orderly resolution of a SIFI can be carried out without putting the financial system at risk.

In this regard the FDIC established a new Office of Complex Financial Institutions and has largely completed the basic rulemaking necessary to carry out its responsibilities (click here for remarks by Martin J. Gruenberg, Acting Chairman, FDIC, to the Federal Reserve Bank of Chicago Bank Structure Conference, May 10, 2012). Almost certainly detangling an insurance company that might be an affiliate in a SIFI will be a challenging exercise requiring utmost communication and cooperation among the FDIC, state regulators and the guaranty funds.

FEDERAL INSURANCE OFFICE: ANTICIPATING THE REPORT

The new head of the Federal Insurance Office (FIO) has reportedly completed its Dodd-Frank mandated study of how to improve and modernize insurance regulation. Publication of the study has been delayed from its scheduled January 2012 delivery, and as of this writing there is no firm date for its release. As part of the study, the FIO was charged with examining the potential consequences of subjecting insurance companies to a federal resolution authority.

Both the NCIGF and National Organization of Life and Health Guaranty Associations (NOLHGA) provided input to the FIO for the purpose of this report. For property and casualty guaranty associations the focus of the comments was:

- The operation of state insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company, is subject to a federal resolution authority; and

- Policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims.

To view the joint comments, filed on December 16, 2011 click here.

DODD-FRANK WORKING GROUP

To work effectively in the Dodd-Frank framework the National Association of Insurance Commissioners (NAIC) formed the Dodd-Frank Receivership Implementation Working Group. The group's 2011 charge is as follows:

Review and consider portions of the recently adopted Dodd-Frank Wall Street Reform and Consumer Protection Act to determine what, if any, state laws, regulations or procedures are necessary for state receivers and the NAIC to be prepared for its requirements related to receivership activities, as well as, monitor, review and provide input on federal rulemaking and studies related to insurance receivership.

Pursuant to its mission the Dodd-Frank Working Group prepared a new chapter for the Receivers Handbook to specifically lay out how a state would respond to the insolvency of a systemically important insurance company, an event the chapter drafters characterized as the result of an "extraordinarily remote set of circumstances." The chapter addressed:

- Establishing processes at the state level to ensure the state receivership mechanism will respond effectively to a Dodd-Frank receivership;

- Analyzing and preparing for the situation in which an insurance company is a subsidiary or affiliate of a covered financial company;

- Describing national coordination initiatives to ensure the national state-based systems provide further support to administering a Dodd-Frank receivership;

- Developing state laws that will ensure that the state mechanisms can effectively initiate and administer a Dodd-Frank receivership.

The chapter also provided a guideline for states to use in reviewing their authority under existing state law for purposes of initiating conservation, rehabilitation or liquidation proceedings in accordance with the federal statute. This guideline was adopted by the NAIC in November 2011. States are already considering shoring up their laws in this regard. Texas has a statute in place and a bill was introduced in Illinois in 2012.

THE FINANCIAL STABILITY OVERSIGHT COUNCIL (FSOC)

The Financial Stability Oversight Council (FSOC) was established by Dodd-Frank. It is charged with three primary purposes:

- To identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace.
- To promote market discipline by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the U.S. government will shield them from losses in the event of failure.
- To respond to emerging threats to the stability of the U.S. financial system.

Pursuant to Dodd-Frank, the Council consists of 10 voting members and five nonvoting members and brings together the expertise of federal financial regulators, state regulators, and an insurance expert appointed by the President.

Insurance representatives now include former Kentucky insurance commissioner Roy Woodall (a voting member), Missouri Insurance Director John Huff and FIO Director Michael McRaith.

THE INTERNATIONAL SCENE – DEALING WITH INSOLVENCY IN A WORLD ECONOMY

The IAIS studies “Guarantee Schemes”

The International Association of Insurance Supervisors (IAIS) has undertaken a study of guaranty associations: what they term “guarantee schemes.” In April the Market Conduct Working Group of the IAIS convened in Chicago where presentations were made on the US system of guaranty fund protection for property casualty and life and health, as well as systems in other jurisdictions.

The Organization for Economic Cooperation and Development (OECD) is also developing a white paper on guarantee schemes in OECD-member countries and selected non-OECD countries. “It examines the rationale for a policyholder protection scheme; the relationship between certain design features and moral hazard; the role of a policyholder protection scheme within the overall resolution framework; and some cross-border features of these schemes. While the paper focuses on protection schemes for policyholders, it seeks to draw lessons from compensation schemes in the banking and occupational pension fund sectors, while recognizing sectoral differences[1].” The state-based system in the United States is featured in this paper along with a wealth of information on various guaranty schemes throughout the world. The paper, when released, will be a good “drill down” piece for anyone wishing to gain knowledge of the status and coverage parameters of various insurance policy protection schemes throughout the world.

At this point neither of the organizations has finalized a work product.

NAIC’S SOLVENCY MODERNIZATION INITIATIVE (SMI)

According to the NAIC’s Web site under the section *Solvency Modernization Initiative*, “SMI is a critical self-examination to update the United States’ insurance solvency regulation framework and includes a review of international developments regarding insurance supervision, banking supervision, and international accounting standards and their potential use in U.S. regulation.” SMI has been described as the NAIC looking at all the “tools” in its “tool box” and deciding what stays, what goes and what needs to be changed. The current plan is to have all major policy decisions completed by the end of 2012.

SMI oversees five key issues:

1. Capital Requirements
2. Governance and Risk Management
3. Group Supervision
4. Statutory Accounting and Financial Reporting

[1] “Policyholder protection schemes: Selected considerations” OECD discussion draft, May 2012.

5. Reinsurance

There are three topics the NAIC is studying that could potentially have impact on the property and casualty guaranty associations. The first topic is the NAIC's ORSA (Own Risk Solvency Assessment). The NAIC currently is working towards making the ORSA a model law by the end of 2012. During its April 4, 2012 meeting the NAIC Group Solvency Issues Working Group released the draft NAIC ORSA Model Act for public comment. Draft model language requires an ORSA be completed each year by insurers with at least $500 million annual direct premium that are part of an insurance group with at least $1 billion annual direct written premium. The working group will discuss the comments, which were due by May 11, 2012, at the August NAIC meeting. The NAIC adopted the ORSA Guidance Manual during the fall 2011 meeting. The manual provides general guidance to an insurer or insurance group for completing the annual ORSA report.

The NAIC's ORSA, which is expected to pass muster with Europe's ORSA, will be a regulator resource to assess and monitor insurers' and groups' risk management processes, align regulatory requirements with business practices and the insurers' ability to withstand stresses. The NAIC's ORSA, as encouraged by industry, is less burdensome than Europe's to complete. ORSA implementation activities currently underway suggest an effective date of 2014.

International Accounting is the second item of interest. It is uncertain whether the U.S. will adopt the International Financial Reporting Standards (IFRS). Because Statutory Accounting evaluates GAAP accounting and makes adjustments when called for, statutory accounting will be affected by whichever method (U.S. GAAP vs. IFRS) is adopted by the U.S. Some maintain it may be more difficult to assess solvency if the U.S. moves towards IFRS because it is principles-based, and therefore more subjective than the U.S. rules-based method.

The third item is the U.S.-based Financial Accounting Standards Board and London-based International Accounting Standards Board's convergence project on insurance contracts. Information on this topic is shown on the NAIC and AICPA Web sites. International accounting's insurance contracts exposure draft does not distinguish the differences in practices between life and property and casualty insurers, especially with regard to short-term contracts. The international body's exposure draft includes probability – weighted cash flows for short-term contracts. This method would not be useful to users of financial statements and could make it difficult to detect insolvencies. The FASB is expected to release their exposure draft during the second half of 2012 after the two boards attempt to work through and evaluate differences in the framework and accounting of insurance contracts. The NAIC has been working with the IASB to develop two models – one for life insurance contracts and another for non-life insurance contracts. It is uncertain whether the IASB will re-expose their exposure draft and whether the two boards will converge insurance contracts into one standard.

IN THE STATES…

Insolvency Developments

State workers' compensation funds (Colorado and Oklahoma)

There was interest this year in privatizing state-run workers' compensation funds and making them "member companies" of the state guaranty fund. This would mean that the newly formed companies would pay guaranty fund assessments and that the guaranty funds would pay covered claims in the event of their failure. The approach was being discussed in Colorado, with regard to the Pinnacol fund, and in Oklahoma, with regard to Compsource (HB 2445 was pending in the Oklahoma 2012 legislature but died at the end of the session.) In both cases proponents would like to make these funds "members" of the guaranty fund going forward. These organizations would pay assessments and be afforded guaranty association coverage for any new policies written. An important question in both states is how old liabilities of these funds – before they became guaranty association members – would be resolved. While no action was taken in either state this year we expect the issue to resurface.

Premium Tax offsets (Indiana, Oklahoma, Washington)

Legislation was proposed in three states in 2012 to tinker with the ability of guaranty fund member insurance companies to take tax offsets for their assessment payments. In none of these states was there sufficient support to pass these measures.

Business Transfers (Vermont – H. 533)

A proposal was floated in Vermont to allow an insurance company to transfer business into a new entity without policyholder consent and without re-domestication to Vermont. Under this proposal all liabilities of the transferring entity would be extinguished. The version of the bill that passed the house purported to make guaranty association coverage available for Vermont resident claims under policies subject to a transaction under this proposal – presumably in the event that the assuming carrier liquidated. While it was not indicated in the bill, we would surmise other states' laws would govern the question of whether or not guaranty fund coverage would be made available in their jurisdictions. Certain fees, including a fee of 1% of the business transferred up to the first $100 million would be due the insurance department on such transactions. The proposal excluded workers' compensation and personal lines business. The property casualty trades and the Reinsurance Association of America submitted letters opposing the bill. While the bill progressed it did not pass during the 2012 session. It is expected to be introduced again next year.

Guaranty Fund Act Developments

Interest continues in the latest version of the NAIC's Property and Casualty Insurance Guaranty Association Model Act. This latest revision of the longstanding NAIC model, on which most state property and casualty guaranty association acts are based, was adopted by the NAIC in 2009.

It is clear that states, while expressing interest in the model, are cautiously evaluating how the specific provisions of this legislative scheme would impact their guaranty funds. The best source of information in this regard is the local guaranty fund manager who is available to provide technical advice on any proposed changes. A proposal in Hawaii based on the model (HB 25050) passed in the 2012 legislature and currently awaits the governor's signature. We understand that Utah will be considering an amendment soon. States that have already adopted in part the NAIC model are Illinois, Iowa, Oklahoma, Louisiana and Rhode Island. The NAIC continues to monitor its progress in the states.

Perennial efforts to raise the covered claim cap from the typical $300,000 in Massachusetts (SB 459) and New Jersey (SB 1104) were floated once again this year. Neither measure has gained much traction so far in 2012

Liquidation Act Developments

While it's been some time since there has been an attempt to propose a comprehensive liquidation act bill based on the Insurer Receivership Model Act, (IRMA) we have seen IRMA language regarding treatment of swaps and derivatives, investment vehicles used by insurance companies, proposed in several states. We understand that at this point 20 states have adopted IRMA swaps language, which continues to be a matter of interest to both property and casualty and life and health insurance companies – both of which use these devices to some extent. In light of the high interest in the swaps language the NAIC is taking another look at the IRMA language. After extensive review the NAIC working group concluded that it could support states enacting IRMA 711 as embodied in the IRMA model – this recommendation was returned by its parent committee requesting additional matters be addressed. Legislation regarding swaps was enacted this year in Michigan.

New Insolvency Activity

The property and casualty guaranty fund system, as always, stands ready to fulfill its statutory mission to protect policy claims in the event of an insolvency. From 2008 through the first quarter of 2012 38 property and casualty companies went into liquidation. The Florida guaranty funds were particularly heavy hit with many single state or regional companies being put down in this hurricane-prone area. The list of new liquidations is as follows:

Name of Company	Liquidation Date	State of Domicile	Type of Company	States Licensed
New Jersey Exchange Insurance Company	02/11/08	NJ	Auto, Commercial	NJ
Guarantee Title and Trust Company	10/27/08	MI	Title	MI
Austin Indemnity Lloyds Insurance Company	12/29/08	TX	Homeowners multi-peril, private passenger auto, auto physical damage	TX
MIIX Insurance Co	04/09/08	NJ	Fire, Allied, CMP, ITO, Ocean, IM, Medical Malpractice, WC	NJ, PA, NY, TX, OH, MI, MD
Valor Insurance Company, Inc.	05/27/09	MT	WC, other liability, private passenger	MT
Colonial Indemnity Insurance Company	07/07/09		Other liability, private passenger auto, commercial, auto and auto physical damage	KY, NY, SC (all claims in NY)
Consumer First Insurance Company	07/21/09	NJ	Auto	NJ
First Commercial Insurance Co.	08/24/09	FL	WC, Commercial, auto, general liab, commercial multiperil	FL, GA
First Commercial Transportation and Property Insurance Co.	08/24/09	FL	Commercial auto	FL only
American Keystone Insurance Co.	10/09/09	FL	Homeowners	FL primarily
Southeastern U.S. Insurance Inc.	10/27/09	GA	WC	GA
Park Avenue Property and Casualty Insurance Co.	11/18/09	OK	WC	28 states—most claims liabilities in FL and GA
Imperial Casualty and Indemnity Insurance Co.	03/18/10	OK	WC	All states except FL, ME, MA, NY
Insurance Corporation of NY	03/10/10	NY	Fire and casualty	26 states (all claims in NY)
Magnolia Insurance Co.	04/20/10	FL	Homeowners	FL only
Northern Capital Insurance Company	05/01/10	FL	Homeowners', automobile and inland marine	FL only
Financial Advisors Assurance Select RRG	05/20/10	NV	Errors and omissions	NV
Gibraltor National Insurance Company	05/21/10	AR	WC	AR only
Titledge Insurance Company of New York	06/16/10	NY	Title	NY
Coral Insurance Co.	07/26/10	FL	Homeowners	FL primarily
Pegasus Insurance Co.	08/12/10	OK	WC, minimal private pasenger auto liability physical damage	27 states
Georgia Restaurant Mutual Captive Insurance Company	09/21/10	GA	WC	GA only
Long Island Insurance Co.	10/19/10	NY	Private passenger auto and physical damage	NY
Constitutional Casualty Co.	01/03/11	IL	Private passenger auto and homeowners multiple peril insurer; some commercial liability	IL only
Aequicap Insurance Co.	03/07/11	FL	Commercial auto	FL primarily, GA, OK, SC
Seminole Casualty Insurance Company	03/15/11	FL	Personal and commercial auto	FL and MD primarily
Atlantic Mutual Insurance Company	04/27/11	NY	WC, commercial multiperil, private passenger auto, homeowners, surety, aircraft	All states
Centennial Insurance Company	04/27/11	NY	WC, commercial multiperil, private passenger auto, homeowners, surety, aircraft	All states
Reinsurance Company of America	04/27/11	IL	WC, non-standard auto liability	20 states (all claims in TX)
Western Insurance Company	09/13/11	UT	Surety	Licensed in 35 states
National Group Insurance Company	10/10/11	FL	Commercial auto, commercial property	FL and GA (all claims are in FL)
National Insurance Company	10/25/11	PR	Commercial auto, private passenger auto, auto physical damage	PR and FL
American Sterling Insurance Company	10/26/11	CA	Commercial auto, private passenger auto, auto physical damage	AZ, NV, KS
HomeWise Preferred Insurance Company	11/04/11	FL	Primarily homeowners insurance	FL, TX, SC
HomeWise Insurance Company	11/18/11	FL	Primarily homeowners insurance	FL and LA
Southern Eagle Insurance Company	12/16/11	FL	WC	FL
Autoglass Insurance Company	01/09/12	NY	Private passenger auto	NY
First Sealord Surety, Inc.	02/08/12	PA	Bond and surety	38 states

Several of these companies were liquidated with little advance notice to the guaranty funds. They involved complex issues, and included claims of injured workers and other claimants whose periodic claims payments would be interrupted without the early intervention of the guaranty funds working in full cooperation with the estate receivers. That these insolvencies continue to occur demonstrates the continued need for a guaranty fund system that is prepared to handle covered claims of insurance consumers. Moreover, early coordination and cooperation between the guaranty funds and the receivers of the insolvent insurance companies is critical to the continued ability of the system to protect policy claimants in a timely manner.

For comprehensive information on the companies the guaranty funds are handling with payout information please see our Web site at www.ncigf.org.

Estate Distributions and Closing Efforts

A critical component of the guaranty funds' ability to timely pay claims of insolvent insurance companies are the distributions of remaining assets of the insolvent estates. Guaranty funds work together with estate liquidators to insure that guaranty fund loss and expense payments are reported on a timely basis and legal documentation is in place to permit available funds to flow to the guaranty associations on an expedited basis.

In 2010, the most current year information is available, the guaranty funds recovered more than $1.3 billion from the insolvent companies' estate assets and statutory deposits.

Closing efforts continue in several jurisdictions. The liquidator for the two Credit General estates in Ohio (Credit General Insurance Company and Credit General Indemnity) expects to file motions by the end of 2013 to propose a plan for estate closure. American Mutual continues to work toward closing. In preparation the liquidator has settled up with the guaranty funds for the values of their paid and unpaid workers' compensation liabilities and the Court approved a distribution of $100 million to Class 2a creditors (predominantly guaranty associations) in April 2011.

Transit Casualty Company

Transit Casualty Company was a Missouri domicile and was placed into liquidation in December 1985. The receiver for Transit Casualty Company filed a petition with the receivership court seeking approval to make a final distribution from the Transit estate. The guaranty associations and other policyholder level claimants a have received prior distributions of 86% of their allowed claims. The proposed final distribution will increase this final dividend to 87.3%. A hearing in the petition was postponed in early

2012. It is expected that the hearing will be rescheduled later in early summer 2012 and that the court will approve a final distribution to policyholder level claimants of approximately 1%.

State Capital Insurance Company

State Capital Insurance Company, a North Carolina domicile, was ordered into liquidation in June 2004. In December 2011, at the prompting of state guaranty associations, the liquidator petitioned for closure of the estate and for authority to make a single distribution to policyholder level claimants of 100% of approved claims. The petition was approved by the liquidation court and the final distribution to policyholder level claimants, primarily the state guaranty associations, was made in December 2011.

American Eagle Insurance Company

The deputy receiver for American Eagle Insurance Company filed an application with the District Court of Travis County, Texas seeking to close the estate and discharge the receiver and deputy receiver. A final distribution to Class 2 creditors including the guaranty associations was made in December 2011. Following the approval of the final distribution order the SDR collected an additional $101, 675 that was distributed pro-rate to approved Class 2 creditors. Before it was placed into receivership in December 1997, American Eagle was licensed to write business in 45 states and wrote coverage for aviation, transportation, construction, and marine risks.

Runoff Proposals

In some cases a state regulator will attempt to resolve a troubled company’s claims by means other than a statutory liquidation. In these cases the guaranty funds are not activated. Proponents for alternative approaches cite orderly claims processing, low cost, and greater flexibility to achieve commercially acceptable results. However, the efficiency and cost-effectiveness of an alternative – compared to a statutory liquidation – to our knowledge has never been established. In fact, there are many questions about how a prolonged run-off, versus a statutory liquidation, would impact the various stakeholders, including policy claimants.

Rhode Island Statute Used in GTE

Rhode Island is the only state to have a law in place regarding run-offs. For the first time a proposal has been approved by the court for a commutation pursuant to the Rhode Island Statute. This matter involves assumed reinsurance business written by GTE Reinsurance Company Limited. GTE novated remaining non-related business and re-domesticated its assumed reinsurance block to Rhode Island. A commutation plan was approved on June 25, 2010. There is no direct insurance business involved. Four hundred and forty cedants remained, and all had a vote on the commutation plan. The Court last April ordered that the plan be implemented – over the objection of several creditors.

Highlands (in rehabilitation)

Highlands was placed into receivership in Travis County, Texas, in November 2003. In 2007 the court approved the Second Amended Plan of Rehabilitation. Under the terms of the plan, the receiver was ordered to administer a Monitoring Plan to ensure the estate will continue to have sufficient funds to pay the company's claims as they come due. As of February 29, 2012, the estate held total assets of $210 million against total liabilities of $402 million. The Highlands Coordinating Committee continues to monitor the rehabilitation and meets periodically with the Special Deputy Receiver.

Frontier Insurance Company (in rehabilitation)

Frontier Insurance Company, a New York domestic, was placed into rehabilitation in October 2001. In early 2010, the California Insurance Commissioner petitioned the New York court to have Frontier placed into liquidation. The motion was denied on procedural grounds, but the court ordered the rehabilitator to file with the court a detailed plan for restoring the company to solvency. The court's deadline for filing the rehabilitation plan has been extended several times. The New York Liquidation Bureau filed a proposed plan of rehabilitation on January 9, 2012. After reviewing the comments and objections of various parties, the court rejected the proposed Plan of Rehabilitation and ordered the rehabilitator to file an amended plan or place the company into liquidation within 60 days. The last date for filing its response is July 22, 2012.

Lumbermens

The Lumbermens, formally Kemper, companies have been in run-off since 2003. Most current financials available indicate the company makes use of statutory law known as "permitted practices" which allows a company to discount various claim reserves held on their books.

Lincoln General

On February 9, 2009, Lincoln General discontinued the writing of new business and began a process that would result in a voluntary, solvent run-off of all business. Third quarter 2011 financials indicate a policyholder surplus of approximately $2 million after augmentation for permitted practices which increase reserves by a total of almost $15 million. The acquisition of control by Tawa plc ("Tawa") of all the issued and outstanding shares of common stock of Lincoln General Insurance Company was approved by the Pennsylvania Insurance Department on October 5, 2011. Tawa is an entity that manages the run-off of non-life insurance companies and portfolios of policies.

Medicare Secondary Payer

The Medicare Secondary Payer provisions in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 impose information reporting requirements on insurance companies and other entities that provide payments pursuant to non-group health insurance plans, including liability insurance, self insurance, no fault insurance, and workers' compensation insurance plans. Failure to comply may result in a fine of $1000 per day per file. Property and casualty guaranty funds are likewise adhering to these obligations. The NCIGF formed two working groups to assist members in understanding their obligations under the Medicare Secondary Payer rules. The NCIGF holds monthly calls for members to share information and ask questions on this subject.

The MARC (Medicare Advocacy Recovery Coalition) is a group formed to advocate for improvements in Medicare Secondary payer (MSP) system. MARC is made up of a group of entities affected by the Medicare reporting requirements; this includes attorneys, brokers, insureds, insurers, insurance and trade associations, self insureds, and third party administrators. (Additional information is available on MARC's Web site at www.marccoalition.com.)

MARC is seeking support for HR 1063, federal legislation introduced in March 2011 to enhance efficiencies, add reasonable statutes of limitations and amend provisions relating to fines for compliance violations.

This bill is showing some momentum in the US Congress; consequently some possibility exists that the reporting requirements, which many consider burdensome, may change in the future.

TO LEARN MORE…

More information about the property and casualty guaranty fund system is available on our Web site at www.ncigf.org.

Look for a new issue of NCIGF's *Insolvency Trends* in January 2013.

The NCIGF is a nonprofit association incorporated in December 1989 and designed to provide national assistance and support to the property and casualty guaranty funds located in each of the fifty states and the District of Columbia.

National Conference of Insurance Guaranty Funds (NCIGF)
300 N. Meridian St.
Suite 1020
Indianapolis, IN 46204

www.ncigf.org