



**Receivership & Insolvency (E) Task Force**  
**Call for Comment – HI Insurance Division**

The Receivership & Insolvency (E) Task Force solicits comment from regulators and interested parties in order to complete its new charge approved on March 18, 2009 by the Financial Condition (E) Committee relating to:

**Identifying and recommending possible solutions to address timing and collection concerns with reinsurance recoverables held by insurers in receivership.**

All comments must be received by the end of the business day **June 10, 2009**, and should be sent electronically to the attention of David Vacca (NAIC Staff) at [dvacca@naic.org](mailto:dvacca@naic.org). The request is as follows:

1. Please provide specific examples of the types of routine issues or delays that can arise in the collection of reinsurance recoverables held by insurers in receivership, as well as whether there are possible related solutions to address timing and collection concerns. Such recommendations could impact both receivers and reinsurers with regard to administrative processes, best practices and/or new statutory requirements.

**Hawaii's Response:**

The Receivership and Insolvency (E) Task Force categorized the reasons for reinsurance recoverables over 90 days past due into the following categories. The examples for Hawaii are placed within these categories.

1. Disputes
  1. Disputes among reinsurance brokers as to responsibilities
  2. Disputes among parent/affiliate ceding companies as to which reinsurance treaties were in effect
  3. Disputes among parent/affiliate as to amount owed under reinsurance treaties
  4. Disputes with reinsurer as to amount previously paid and currently owed
2. Slow Pay
  1. Disputes with reinsurer as to amount previously paid and currently owed
  2. Request for supporting documents from reinsurer for claims submitted
  3. Requested documents not readily available to receiver due to condition of insolvent insurer's files
  4. New or different staff at reinsurer not familiar with treaty requiring more documentation & support
  5. Insolvency status appears to lower priority of service with some reinsurers
3. Insolvent Insurer
  1. Lacking resources to pay any reinsurance claims
  2. Lacking resources to pay a portion of reinsurance claims
4. Commutations
  1. Requested documents not readily available to receiver due to condition of insolvent insurer's files
  2. Negotiation process to achieve fair settlement for both parties takes time
5. Other
  1. Availability & condition of insolvent insurer's records and files poor or disorganized
  2. Identifying and locating all relevant reinsurance treaties and agreements and terms
  3. Locating and reconciling all relevant reinsurance records and reports to books
  4. Key reinsurance personnel for insolvent insurer usually no longer available to provide answers to questions
  5. Requires more lengthy effort to reconstruct audit trail of reinsurance activity to gain better understanding
  6. Receivership staffed with personnel well versed in reinsurance matters helps greatly in collection effort
  7. Coordination with guarantee funds to provide required claim information on timely basis
  8. Ability of receivership to properly track and report to reinsurers any "excess" claims above the statutory limit of the guarantee funds

## 6. Not Provided

The basic solution to most of the issues mentioned above will be greatly enhanced if the insolvent insurer kept good records of all its reinsurance transactions. Some of the problems arise because the parent of the insolvent insurer handles most if not all of the reinsurance activity including the recording and control over the cashflows and there is insufficient documentation available at the subsidiary level and obtaining the necessary information can be prolonged due to turf battles among the insolvent entities.

Under this situation, the best that the receiver can do is try and gather as much of the records and files up front as quickly as possible before some of the information and records are lost, destroyed or sequestered away.

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