

Office of the
Special Deputy Receiver
Representing Michael T. McRaith
Director of Insurance
State of Illinois

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*Patrick D. Hughes,
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June 10, 2009

Via e-mail Delivery

Mr. David A. Vacca, CPA
Assistant Director
Insurance Analysis and Information Services Department
NAIC Regulatory Services Division
2301 McGee Street
Suite 800
Kansas City, MO 64108-2604

**Re: Receivership & Insolvency (E) Task Force
Call for Comment**

Dear Mr. Vacca:

In response to your May 21, 2009 e-mail concerning the captioned, the following are examples of the types of routine issues or delays that may arise in the collection of reinsurance recoverables held by insurers in receivership. Note that these examples are not all encompassing -- they should not be construed as the only issues which might lead to a delayed payment from a reinsurer. Nor should my identification of these examples be read as a comment on the many policy issues inside these various topics. The issues listed below are based on our experience of administering the affairs of the insurance companies that were placed into receivership and appointed to the Special Deputy by the Illinois Director of Insurance:

- Objections made by the reinsurer against a claim amount recommended for allowance.
- The reinsurer makes request to audit and inspect the company records pertaining to the claims billed, but then stalls when following through and scheduling such request.
- Excessive requests made by the reinsurer for documentation to support the claims billed for recovery, then continually questions documents provided.
- The reinsurer raises late notice defense, or uses a time bar defense when noticed of particular claim(s).

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- Difficulty in receiving cooperation from the reinsurance intermediary to devote the time and resources necessary to runoff and finalize collection of the ceded balances. Once the intermediaries stop collecting brokerage as a result of a receivership, the balances due the company arguably seem to become secondary.
- Unresponsive foreign reinsurers who arguably use distance and/or difficulties in communicating as a means to delay payment and protect themselves from further action.
- The reinsurer enters runoff and will only entertain discounted settlements of all reinsurance programs involved.
- Reinsurers look for finality when dealing with a company in receivership, preferring to make a final settlement for the entire book via commutation, not wanting to devote their resources towards maintaining a relationship with companies in receivership.
- The reinsurer refuses to pay until all ceded losses of a reinsurance program are known. If the development of a particular program becomes highly unfavorable, additional contingent premium might become due the reinsurer; an amount the reinsurer would prefer to use as a dollar-for-dollar offset rather than as a claim filed against the estate in which a distribution at the reinsurer level may never be made.

Should you have any questions or require additional information, do not hesitate to contact me directly at (312) 836-9671, or by e-mail: mcosentino@osdchi.com.

Sincerely,



Michael Cosentino

Senior Manager – Reinsurance

cc: Pat Hughes, Special Deputy