



Date: 7/12/21

*Virtual Meeting
(in lieu of meeting at the 2021 Summer National Meeting)*

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE

Tuesday, July 27, 2021

1:00 – 2:00 p.m. ET / 12:00 – 1:00 p.m. CT / 11:00 a.m. – 12:00 p.m. MT / 10:00 – 11:00 a.m. PT

ROLL CALL

Doug Slape, Chair	Texas	Anita G. Fox	Michigan
James J. Donelon, Vice Chair	Louisiana	Chlora Lindley-Myers	Missouri
Peni Itula Sapini Teo	American Samoa	Troy Downing	Montana
Evan G. Daniels	Arizona	Eric Dunning	Nebraska
Michael Conway	Colorado	Marlene Caride	New Jersey
Andrew N. Mais	Connecticut	Russell Toal	New Mexico
David Altmaier	Florida	Mike Causey	North Carolina
Colin M. Hayashida	Hawaii	Edward M. Deleon	Northern Mariana Islands
Dana Popish Severinghaus	Illinois	Guerrero	Oklahoma
Doug Ommen	Iowa	Glen Mulready	Pennsylvania
Vicki Schmidt	Kansas	Jessica K. Altman	Rhode Island
Sharon P. Clark	Kentucky	Elizabeth Kelleher Dwyer	South Carolina
Eric A. Cioppa	Maine	Raymond G. Farmer	Utah
Gary D. Anderson	Massachusetts	Johnathan T. Pike	

NAIC Support Staff: Jane Koenigsman

AGENDA

1. Consider Adoption of its May 20 Minutes—*James Kennedy (TX)* Attachment One
2. Consider Adoption of its Working Group Reports
 - a. Receivership Financial Analysis (E) Working Group—*Toma Wilkerson (FL) and Donna Wilson (OK)*
 - b. Receiver’s Handbook (E) Subgroup—*Kevin Baldwin (IL)* Attachment Two
 - c. Receivership Law (E) Working Group—*Laura Lyon Slaymaker (PA)* Attachment Three
3. Consider Adoption of its 2022 Proposed Charges—*James Kennedy (TX)* Attachment Four
4. Hear an Update on International Resolution Activity—*James Kennedy (TX) and Robert Wake (ME)*
5. Discuss Follow-Up Items from Macroprudential Initiative (MPI) Recommendations—*James Kennedy (TX)*
6. Discuss Any Other Matters Brought Before the Task Force—*James Kennedy (TX)*



7. Adjournment

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Draft: 6/1/21

Receivership and Insolvency (E) Task Force
Virtual Meeting
May 20, 2021

The Receivership and Insolvency (E) Task Force met May 20, 2021. The following Task Force members participated: Doug Slape, Chair, represented by James Kennedy (TX); James J. Donelon, Vice Chair, represented by Tom Travis (LA); Andrew N. Mais represented by Jared Kosky (CT); David Altmaier represented by Toma Wilkerson (FL); Colin M. Hayashida represented by Patrick P. Lo (HI); Doug Ommen represented by Kevin Clark (IA); Dana Popish Severinghaus represented by Kevin Baldwin (IL); Vicki Schmidt represented by Justin McFarland (KS); Sharon P. Clark represented by Bill Clark (KY); Gary D. Anderson represented by Christopher Joyce (MA); Eric A. Cioppa represented by Robert Wake (ME); Anita G. Fox represented by James Gerber (MI); Chlora Lindley-Myers represented by Shelley Forrest (MO); Mike Causey represented by Jackie Obusek (NC); Eric Dunning (NE); Glen Mulready represented by Donna Wilson (OK); Jessica K. Altman represented by Laura Lyon Slaymaker (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); and Raymond G. Farmer represented by Gwen Fuller McGriff (SC).

1. Adopted its March 12 Minutes

The Task Force met March 12 to: 1) adopt its Nov. 19, 2020, minutes; 2) adopt the report of the Receivership Financial Analysis (E) Working Group; 3) adopt the report of the Receivership Law (E) Working Group; 4) adopt the *Guideline for Definition of Reciprocal State in Receivership Laws*; 5) form the Receiver's Handbook (E) Subgroup and adopt its 2021 proposed charges; and 6) hear an update on the status of Macroprudential Initiative (MPI) recommendations.

Ms. Obusek made a motion, seconded by Mr. Kosky, to adopt the Task Force's March 12 minutes (*see NAIC Proceedings – Spring 2021, Receivership and Insolvency (E) Task Force*). The motion passed unanimously.

2. Adopted Amendments to Model #440 and Model #450

Ms. Slaymaker said in 2020, the Receivership Law (E) Working Group was given the charge to provide recommendations for remedies to ensure the continuity of essential services and functions to an insurer in receivership by affiliated entities, including non-regulated entities and specifically for agreements with affiliated entities whose sole business purpose is to provide services to the insurance company. This charge came out of prior recommendations from the Task Force as part of the MPI that identified the continuation of essential services as an area where regulatory powers are implicit rather than explicit. Further, the experiences of state insurance regulators have shown that receivers continue to be challenged by this issue, as current remedies may not immediately address the need to continue services in receivership.

Ms. Slaymaker said the Working Group began meeting in 2020 to address the charge. It first conducted a survey to identify recommendations for how to address this issue, including amendments to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The draft amendments to Model #440 and Model #450 were exposed for public comment twice with subsequent revisions made to address comments. The amendments to Model #440 were exposed a third time following a final round of edits. The amendments were made to Section 5—Standards and Management of an Insurer Within an Insurance Holding Company System of Model #440 and Section 19—Transactions Subject to Prior Notice - Notice Filing (Form D) of Model #450. Ms. Slaymaker summarized the amendments as follows:

1. Books and records of the insurer are updated to specifically include data of the insurer, being the property of the insurer. The data and records should be identifiable and capable of segregation; i.e., available to the receiver in the event of insolvency, including the systems necessary to access them. The data is specifically defined in Model #450.
2. If the commissioner deems the insurer to be in a statutorily defined hazardous financial condition, he or she may require a bond or deposit, limited in amount, after consideration of whether there are concerns about the affiliated party's ability to fulfill the contract in the event of a liquidation.
3. Premiums are the property of the insurer, with any right of offset subject to receivership law.
4. The affiliated entity is subject to the jurisdiction of the receivership court, and in certain circumstances, the commissioner may require the affiliate to agree to this in writing.

5. Provisions are included relating to the indemnification of the insurer in the event of gross negligence or willful misconduct by the affiliate.
6. In the event of receivership, which now includes supervision and conservatorship:
 - a. The rights of the insurer extend to the receiver or guaranty fund.
 - b. The affiliate will make available essential personnel.
 - c. The affiliate will continue the services for a minimum time period, as specified in the agreement, with timely payment for post-receivership work.
 - d. The affiliate will maintain necessary systems, programs or infrastructure and make them available to the receiver or commissioner for as long as the affiliate receives timely post-receivership payment, unless released by the receiver, commissioner or receivership court.

Ms. Slaymaker made a motion, seconded by Ms. Wilkerson, to adopt the amendments to Model #440 and Model #450 (Attachment One-A). The motion passed unanimously.

3. Heard an Update on the Group Solvency Issues (E) Working Group

Mr. Kennedy said the Group Solvency Issues (E) Working Group exposed draft updates to guidance in the *Financial Analysis Handbook* regarding international standards under the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) for a 60-day public comment period ending July 16. He encouraged members, interested state insurance regulators, and interested parties to review the guidance specifically related to crisis management groups, recovery planning, and resolution planning.

Having no further business, the Receivership and Insolvency (E) Task Force adjourned.

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Draft: 7/13/21

Receivership Law (E) Working Group
Virtual Meeting
May 4, 2021

The Receivership Law (E) Working Group of the Receivership and Insolvency (E) Task Force met May 4, 2021. The following Working Group members participated: Kevin Baldwin, Co-Chair (IL); Laura Lyon Slaymaker, Co-Chair (PA); Steve Uhrynowycz (AR); Jack Hom (CA); Jared Kosky (CT); Toma Wilkerson (FL); Tom Travis (LA); Christopher Joyce (MA); Robert Wake (ME); James Gerber (MI); Shelley Forrest (MO); Justin Schrader (NE); James Kennedy (TX); and Melanie Anderson (WA).

1. Adopted Amendments to Model #440 and Model #450

Ms. Slaymaker said on the Working Group's March 5 meeting, additional revisions to Section 5A(1)(g) of the *Insurance Holding Company System Regulatory Act* (#440) were released for a 30-day public comment period ending April 9.

Ms. Slaymaker said one comment letter was received from the American Council of Life Insurers (ACLI) (Attachment Three-A). Wayne Mehlman (ACLI) said the addition to the drafting note for Section 5A(1)(g) is to clarify that the section applies to managerial and support service agreements, and it does not apply to reinsurance or risk transfer. Ms. Slaymaker said she agrees with the ACLI's suggested addition. Hearing no objection, she said the additional wording will be included in the amendments.

Mr. Kennedy made a motion, seconded by Ms. Wilkerson, to adopt the amendments to Model #440 and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) (Attachment One-A). The motion passed unanimously.

2. Discussed Updating Related Regulatory Guidance

Mr. Baldwin said the original survey to gather ideas to address the issue of the continuation of services and issues with access to books and records, in addition to the model amendments, included two general recommendations to update pre-receivership analysis, examination guidance, and guidance in the *Receiver's Handbook for Insurance Company Insolvencies* (Handbook).

Mr. Baldwin said as analysis and examination guidance is outside the scope of this Working Group, after the NAIC has adopted the Model #440 and Model #450 amendments, the appropriate NAIC groups can address related updates to pre-receivership analysis and examination guidance.

Mr. Baldwin said at the 2020 Spring National Meeting, the NAIC adopted charges to form the Receiver's Handbook (E) Subgroup, which will review and draft updates to the Handbook. He said he will serve as the Subgroup's chair, and Ms. Wilkerson will serve as vice chair. He said the Subgroup will review the existing guidance, including aspects of service agreements and the books and records of the estate. He said he recommends that the Subgroup address aligning Handbook guidance to the Model #440 and Model #450 amendments, once adopted, as part of the normal process of completing its charge. Ms. Wilkerson and Mr. Kosky agreed. Hearing no objection, Mr. Baldwin said guidance will be drafted by the Subgroup under its charge to update the Handbook.

Having no further business, the Receivership Law (E) Working Group adjourned.

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Draft: 6/15/21

Receiver's Handbook (E) Subgroup
Virtual Meeting
June 14, 2021

The Receiver's Handbook (E) Subgroup of the Receivership and Insolvency (E) Task Force met June 14, 2021. The following Subgroup members participated: Kevin Baldwin, Chair (IL); Toma Wilkerson, Vice Chair (FL); Joe Holloway (CA); Jared Kosky (CT); James Gerber (MI); Donna Wilson and Jamin Dawes (OK); Laura Lyon Slaymaker and Crystal McDonald (PA); and Brain Riewe (TX).

1. Adopted its May 26 Minutes.

The Subgroup met May 26 and took the following action: 1) discussed its charges; and 2) planned the review process for the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook). Mr. Baldwin noted that the minutes from the May meeting were in the meeting materials.

Mr. Gerber made a motion, seconded by Ms. Wilkerson, to adopt the Subgroup's May 26 minutes (Attachment Two-A). The motion passed unanimously.

2. Discussed the Drafting Group Volunteers and Process

Mr. Baldwin thanked the volunteers that have agreed to participate in the drafting group and discussed the process for the drafting group. He said that the drafting group would have a primary drafter for specific pages of Chapter 1. The other group members would add comments and/or revisions to the Word document. The drafting group would schedule a meeting(s) to discuss the comments or revisions. Once completed, the drafting group would present the document to the Subgroup for public exposure. Once the document has been publicly exposed, the public comments received would be considered by the Subgroup and the document would be revised as warranted. After public exposure, the Subgroup would consider adoption of Chapter 1. This would be the same process for all the other chapters of the Receiver's Handbook.

3. Demonstrated SharePoint Collaboration Software for Drafting Groups

Mr. Baldwin introduced Sherry Flippo (NAIC) and Amy Lopez (NAIC). They demonstrated the SharePoint website that would be used for collaboration among the drafting group members.

Having no further business, the Receiver's Handbook (E) Subgroup adjourned.

Draft: 6/2/21

Receiver's Handbook (E) Subgroup
Virtual Meeting
May 26, 2021

The Receiver's Handbook (E) Subgroup of the Receivership and Insolvency (E) Task Force met May 26, 2021. The following Subgroup members participated: Kevin Baldwin, Chair (IL); Toma Wilkerson, Vice Chair (FL); Jared Kosky (CT); James Gerber (MI); Leatrice Geckler (NM); Donna Wilson and Jamin Dawes (OK); Laura Lyon Slaymaker and Crystal McDonald (PA); and Brain Riewe (TX).

1. Reviewed its Charge

Mr. Baldwin reviewed the Subgroup's charge to "Review the Receiver's Handbook to identify areas where information is outdated, updates are required, or additional guidance is needed. Based on this review, draft and propose recommended edits to the Receiver's Handbook." He noted that the charge is to be completed by the 2022 Fall National Meeting.

2. Reviewed the Chapters of the Receiver's Handbook and Considered the Assignment of Drafting Groups

Mr. Baldwin reviewed the current chapters of the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook). After discussions concerning making the Receiver's Handbook more user friendly and concise by the participants, he noted that the Subgroup would form two drafting groups. The drafting groups would perform the drafting, editing and writing of the first two chapters. Then, the draft of the chapters would be sent to the Subgroup for public exposure and comment. Mr. Baldwin invited Subgroup members, interested state insurance regulators, and interested parties to volunteer for any chapters in which they are interested by contacting Sherry Flippo (NAIC) or Erin Arcott (NAIC).

Having no further business, the Receiver's Handbook (E) Subgroup adjourned.

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2022 Proposed Charges

Receivership and Insolvency (E) Task Force

The mission of the Receivership and Insolvency (E) Task Force shall be administrative and substantive as it relates to issues concerning insurer insolvencies and insolvency guarantees. Such duties include, without limitation, monitoring the effectiveness and performance of state administration of receiverships and the state guaranty fund system; coordinating cooperation and communication among regulators, receivers and guaranty funds; monitoring ongoing receiverships and reporting on such receiverships to NAIC members; developing and providing educational and training programs in the area of insurer insolvencies and insolvency guarantees to regulators, professionals and consumers; developing and monitoring relevant model laws, guidelines and products; and providing resources for regulators and professionals to promote efficient operations of receiverships and guaranty funds.

The **Receivership and Insolvency (E) Task Force** will:

- A. Monitor and promote efficient operations of insurance receiverships and guaranty associations.
- B. Monitor and promote state adoption of insurance receivership and guaranty association model acts and regulations, and monitor other legislation related to insurance receiverships and guaranty associations.
- C. Provide input and comments to the International Association of Insurance Supervisors (IAIS), the Financial Stability Board (FSB) or other related groups on issues regarding international resolution authority.
- D. Monitor, review and provide input on federal rulemaking and studies related to insurance receiverships.
- E. Provide ongoing review of the *Receiver's Handbook for Insurance Company Insolvencies* (Receiver's Handbook), other related NAIC publications, and the Global Receivership Information Database (GRID), and make any necessary updates.
- F. Monitor the work of other NAIC committees, task forces and working groups to identify and address any issues that affect receivership law and/or regulatory guidance.
- G. Perform additional work as directed by the Financial Condition (E) Committee and/or received through referral by other groups.

The **Receivership Financial Analysis (E) Working Group** will:

1. Monitor receiverships involving nationally significant insurers/groups to support, encourage, promote and coordinate multistate efforts in addressing problems.
2. Interact with the Financial Analysis (E) Working Group, domiciliary regulators, and lead states to assist and advise as to what might be the most appropriate regulatory strategies, methods and/or action(s) regarding potential or pending receiverships.

The **Receivership Law (E) Working Group** will:

1. Review and provide recommendations on any issues identified that may affect states' receivership and guaranty association laws (e.g., any issues that arise as a result of market conditions; insurer insolvencies; federal rulemaking and studies; international resolution

initiatives; or as a result of the work performed by or referred from other NAIC committees, task forces and/or working groups).

2. Discuss significant cases that may impact the administration of receiverships.
- ~~3. Complete work as assigned from the Receivership and Insolvency (E) Task Force to address recommendations from the Financial Stability (E) Task Force's Macroprudential Initiative (MPI) referral:
 - ~~1. Complete work related to qualified financial contracts (QFCs), including: 1) explore if bridge institutions could be implemented under regulatory oversight pre-receivership to address an early termination of QFCs and, if appropriate, develop applicable guidance; 2) develop enhancements to the Receiver's Handbook guidance on QFCs; and 3) identify related pre-receivership considerations related to QFCs and, if necessary, make referrals to other relevant groups to enhance pre-receivership planning, examination and analysis guidance.~~
 - ~~2. Review and provide recommendations for remedies to ensure the continuity of essential services and functions to an insurer in receivership by affiliated entities, including non-regulated entities. Among other solutions, this will encompass a review of the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) to provide proposed revisions to address the continuation of essential services through affiliated intercompany agreements in a receivership.~~
 - ~~3. Consult with and/or make referrals to other NAIC working groups, as deemed necessary, as the topic relates to affiliated intercompany agreements and pre-receivership considerations. Complete by the 2021 Fall National Meeting.~~~~

The **Receiver's Handbook (E) Subgroup** of the Receivership and Insolvency (E) Task Force will:

1. Review the Receiver's Handbook to identify areas where information is outdated, updates are required, or additional guidance is needed. Based on this review, draft and propose recommended edits to the Receiver's Handbook. Complete by the 2022 Fall National Meeting.