

Draft date: 10/28/24

2024 Fall National Meeting  
Denver, Colorado

**RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE**

Monday, November 18, 2024

11:00 a.m. – 12:00 p.m.

Gaylord Rockies Hotel—Aurora Ballroom B—Level 2

**ROLL CALL**

Ann Gillespie, Chair	Illinois	Chlora Lindley-Myers	Missouri
Glen Mulready, Vice Chair	Oklahoma	Eric Dunning	Nebraska
Mark Fowler	Alabama	Scott Kipper	Nevada
Lori K. Wing-Heier	Alaska	Justin Zimmerman	New Jersey
Alan McClain	Arkansas	Mike Causey	North Carolina
Michael Conway	Colorado	Jon Godfread	North Dakota
Andrew N. Mais	Connecticut	Judith L. French	Ohio
Karima M. Woods	District of Columbia	Andrew R. Stolfi	Oregon
Michael Yaworsky	Florida	Michael Humphreys	Pennsylvania
Gordon I. Ito	Hawaii	Elizabeth Kelleher Dwyer	Rhode Island
Doug Ommen	Iowa	Michael Wise	South Carolina
Vicki Schmidt	Kansas	Carter Lawrence	Tennessee
Sharon P. Clark	Kentucky	Cassie Brown	Texas
Timothy J. Temple	Louisiana	Scott A. White	Virginia
Robert L. Carey	Maine	Mike Kreidler	Washington
Michael T. Caljouw	Massachusetts	Nathan Houdek	Wisconsin

NAIC Support Staff: Jane Koenigsman

**AGENDA**

1. Consider Adoption of its Summer National Meeting Minutes Attachment One  
—*Jacob Stuckey (IL)*
2. Consider Adoption of the Report of the Receivership Financial Analysis  
(E) Working Group—*Donna Wilson (OK)*
3. Receive a Proposal for Enhancements to the Global Receivership Attachment Two  
Information Database (GRID)—*Peter Gould*
4. Hear a Report on International Resolution Activities—*Robert Wake (ME)*



5. Discuss Any Other Matter Brought Before the Task Force  
—*Jacob Stuckey (IL)*
6. Adjournment

## Draft Pending Adoption

Draft: 8/19/24

Receivership and Insolvency (E) Task Force  
Chicago, Illinois  
August 14, 2024

The Receivership and Insolvency (E) Task Force met in Chicago, IL, Aug. 14, 2024. The following Task Force members participated: Ann Gillespie, Chair, represented by Kevin Baldwin (IL); Glen Mulready, Vice Chair, represented by Donna Wilson (OK); Lori K. Wing-Heier represented by David Phifer (AK); Mark Fowler represented by Lorenzo Alexander and Marie McKitt (AL); Michael Conway represented by Rolf Kaumann and Cindy Hathaway (CO); Andrew N. Mais represented by Jane Callahan (CT); Karima M. Woods represented by N. Kevin Brown (DC); Michael Yaworsky represented by Yamile Benitez-Torviso (FL); Doug Ommen represented by Daniel Mathis (IA); Vicki Schmidt represented by Chut Tee (KS); Sharon P. Clark represented by Russell Coy (KY); Timothy J. Temple represented by Matthew Stewart and David Caldwell (LA); Kevin P. Beagan represented by Christopher Joyce (MA); Robert L. Carey represented by Robert Wake (ME); Chlora Lindley-Myers represented by Shelley Forrest (MO); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by Colton Schulz (ND); Eric Dunning represented by Tadd Wegner (NE); Justin Zimmerman represented by David Wolf (NJ); Judith L. French represented by Sean Sheridan (OH); Andrew R. Stolfi represented by Kirsten Anderson (OR); Michael Humphreys represented by Laura Lyon Slaymaker and Joe Cho (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Carter Lawrence represented by Trey Hancock (TN); Cassie Brown represented by Jessica Barta (TX); Scott A. White represented by Dan Bumpus (VA); Mike Kreidler represented by Charles Malone (WA); and Nathan Houdek represented by Mark McNabb (WI).

### 1. Adopted its Spring National Meeting Minutes

Schultz made a motion, seconded by Wilson, to adopt the Task Force's March 17 minutes (*see NAIC Proceedings – Spring 2024, Receivership and Insolvency (E) Task Force*). The motion passed unanimously.

### 2. Adopted its 2025 Proposed Charges

Baldwin said the 2025 proposed charges do not contain any substantive edits. The charges were released for a 14-day public comment period that ended Aug. 9. No comments were received.

Gendron made a motion, seconded by Malone, to adopt the 2025 proposed charges of the Task Force and its working groups (Attachment One). The motion passed unanimously.

### 3. Adopted the Report of the Receivership Financial Analysis (E) Working Group

Wilson said the Receivership Financial Analysis (E) Working Group met Aug. 14 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to discuss companies in receivership and related topics.

Slaymaker made a motion, seconded by Gendron, to adopt the report of the Receivership Financial Analysis (E) Working Group. The motion passed unanimously.

### 4. Adopted the Report of the Receivership Law (E) Working Group

Slaymaker said the Receivership Law (E) Working Group met July 24. During this meeting, the Working Group heard an overview and update on the status of states' adoption of the Federal Home Loan Bank's (FHLB's)

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legislation regarding exemptions to stays and injunctions in receivership. Since this topic was first discussed in 2013, 29 states have adopted similar exemption legislation, and two states have pending legislation. NAIC staff have made available a list of the states with legislation and the states' legal citations on the Task Force's web page to assist the remaining states that may be approached with proposed legislation. Additionally, for state insurance regulators who may want to review the language that other states have adopted, the details are posted to StateNet. State insurance regulators can also contact NAIC staff for information.

Slymaker said the Working Group heard a presentation on the results of the litigation in Pennsylvania on Penn Treaty Network America (Penn Treaty) and how the issues from that litigation about continuation of coverage and over-the-cap claims relate to the current *Insurer Receivership Model Law* (#555). The three key issues regarding Penn Treaty were: 1) the provision that the rights and liabilities of the parties should be fixed at the time of the liquidation or at such time as the court orders; 2) the provision for the termination of coverage no later than 30 days following the liquidation order, absent certain specific circumstances; and 3) the principle that subclasses of policyholder claims cannot be created in the priority scheme.

Slymaker said the three issues could be addressed if a state has provisions similar to Model #555 Sections 501 and 502 in its law. It is also helpful to have Section 801. In 2019, the Task Force looked at states' laws and determined wide variances between states that had Section 502, those that had an older version, and those that had no similar provision. All states that do not have the current version of Model #555 Sections 501, 502, and 801 are strongly encouraged to review and update receivership laws to avoid similar issues that may arise in future insolvencies.

Schultz made a motion, seconded by Wolf, to adopt the report of the Receivership Law (E) Working Group (Attachment Two). The motion passed unanimously.

### 5. Heard a Report on International Resolution Activities

Wake said the International Association of Insurance Supervisors (IAIS) Resolution Working Group is reviewing comments received on the public consultation of the revisions to Insurance Core Principle (ICP) 12 (Exit from the Market and Resolution) and ICP 16 (Enterprise Risk Management for Solvency Purposes) related to recovery and resolution. After receiving feedback from the IAIS Supervisory Material Review Task Force, the Resolution Working Group is expected to meet Sept. 11–12 in Basel, Switzerland, to review the draft response and prepare a report for its parent committee, the IAIS Policy Development Committee.

### 6. Heard an Update from RRC on Upcoming IAIR Events

Jan Moenck (Risk & Regulatory Consulting—RRC) said the International Association of Insurance Receivers (IAIR) has several upcoming events planned. The IAIR will hold a virtual training event Sept. 10 focused on ethics and a two-day training event Oct. 16–17 focused on early detection of financial issues. The IAIR plans to hold its next issues forum, guaranty fund forum, and roundtable session in conjunction with the Fall National Meeting.

### 7. Heard an Update from the NCIGF on the Proposed Federal APRA

Ashley Rosenberger (National Conference of Insurance Guaranty Funds—NCIGF) said the NCIGF has formed a subcommittee to review the scope and applicability of the proposed federal American Privacy Rights Act (APRA) to data of the NCIGF and states' guaranty funds. She said the APRA creates obligation for certain defined organizations that possess consumers covered data as the bill defines it, and it provides consumers with specific rights and powers with respect to their covered data. Based on this review, APRA may apply to NCIGF, its subsidiary Guaranty Support Inc. (GSI), and its property and casualty guaranty funds, which have covered data as

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described in the bill. APRA was designed to apply to organizations that gather and monetize data or sell it. NCIGF believes it is not an intended entity. The language in APRA may not be precise enough to exclude the NCIGF, GSI and the guaranty funds. NCIGF subcommittee has put together language to exclude NCIGF from this bill or future bills. She said the NCIGF is in communication with congressional staff to discuss why NCIGF, GSI and guaranty funds should be excluded, because data is not monetized, aggregated, or sold. Data is used to fulfil statutory obligations to pay and settle covered claims. Compliance with APRA may require more staff that would be unduly burdensome. She said NCIGF believes it falls into the category of service provider, which has less burdensome requirements under the bill, but may require changes to policies and practices. She said the subcommittee thought it may also apply to receivers and the estate they are responsible for, if they possess the covered data as defined in the bill. However, NCIGF did not see how states were specifically addressed in the bill.

Baldwin said this may be a topic for the Receivership Law (E) Working Group to review.

### 8. Heard an Update on an Insurer in Liquidation

Mark Bennett (Cantilo & Bennett LLP) said the U.S. Court of Appeals for the DC Circuit issued a ruling Aug. 9, 2024, in the case of Richardson, as Receiver of Nevada Health Co-Op v. U.S., where the receiver prevailed. The Court of Appeals ruled the U.S. government had no right to offset the Affordable Care Act's (ACA's) Consumer Operated and Oriented Plan's (Co-Op's) start-up loans against the \$55 million in statutory amounts owed to Nevada Health under the ACA's risk corridor, reinsurance, risk adjustment, and cost sharing reduction programs.

Bennett said it is uncertain how this and other related rulings could impact federal claims in future estates. He said there are still lengthy delays in receiving responses from the U.S. government to requests for federal waivers. Jane Koenigsman (NAIC) said state sponsors are needed to propose an amendment to the Federal Priority Act to address the timeliness of receipt of federal waivers.

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

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**Receivership and Insolvency (E) Task Force****Amendment Proposal Form**

1. Identify yourself, your affiliation, and a very brief description (title) of the issue.

**Identification:**

Peter Gould - consumer and annuity & life insurance policy owner

I am a retiree. My wife and I depend on Guaranteed Lifetime Withdrawal Benefits from variable annuities for a considerable portion of our retirement income. We did not purchase annuities as speculative investments. As an annuity owner, the insurer's obligations to me are spelled out in my contracts. However, there are no provisions in my contracts that protect me or provide me rights to prevent my insurer from becoming insolvent or unable to meet their contractual obligations to me. I rely entirely on state regulators to adopt and enforce regulations that proactively and effectively prevent: failures of insurers, impairment of insurers' solvency and inability of insurers to honor their contractual obligations to policyowners.

**Title of the Issue:**

Improvement and expansion of the Global Receivership Information Database (GRID) system.

2. Identify the document, including the date if the document is "released for comment," and the location in the document where the amendment is proposed:

Receivership and Insolvency (E) Task Force - 2024 Adopted Charges (as shown on the RITF webpage - <https://content.naic.org/committees/e/receivership-insolvency-tf>),

"5, Provide an 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."

3. Show what changes are needed by providing a red-line version of the original verbiage with deletions and identify the verbiage to be deleted, inserted, or changed by providing a red-line (turn on "track changes" in Word®) version of the verbiage. (You may do this through an attachment.)

In a search of the NAIC website, I was not able to find the official parameters and specifications for the GRID system, so I'm unable to provide a red-line version. Here are my proposed changes to the GRID system:

- A. Make GRID reporting mandatory, rather than voluntary and require timely reporting (15 days). The minutes of the 3/17/2024 RITF meeting describe the problems with the current protocol - states fail to submit GRID information, information submitted is incomplete, submissions are not timely, etc.
- B. Expand GRID data collection so that in addition to just companies in rehabilitation, reporting is also required for all companies in suspension, supervision and liquidation.

C. Add a date range search option, so that consumers and other stakeholders can select a date range and view the GRID information in list form. The current search option requires the user to enter a specific company name - there's no way to look at all companies in receivership, unless you already know each company name and do a separate search for each one.

Add filtering so that the list can be sorted by any field (i.e. insurer name, date, domicile state, etc.).

Add ability to download the list with all data elements as an Excel file.

D. Add live links for each company so users can click to access complete statutory and GAAP annual reports, rehabilitation orders, communications to policy owners, etc.

E. Add name of CEO to GRID data

F. Add name of CFO to GRID data

G. Add Appointed Actuary name and address to GRID data

H. Add CPA firm name and address that prepared statutory and GAAP annual reports to GRID data

I. Expand data elements contained in GRID. Separately I will propose additional reporting/analysis requirements - these would be included in the GRID system for stakeholder use and to inform enforcement and future regulations.

4. State the reason for the proposed amendment. (You may do this through an attachment.)

There is no centralized and complete registry of insurers in trouble available to stakeholders (state insurance regulators, consumers, legislators, insurance professionals, Federal agencies, researchers, journalists/news media, academics and other interested parties). Apparently, the closest thing to this is the AM Best Insolvency Report - which may not be complete and comprehensive, is not updated in real-time and is only available at considerable cost.

This information is crucial to NAIC members. Unless you're looking at **all** rehabilitations, suspensions, supervisions and liquidations in something close to real time, you aren't looking at the big picture. Early identification of trending problems can inform the promulgation of regulations, the development of new best practices and the improvement of enforcement to prevent future failures. Rehabilitations, suspensions, supervisions and liquidations are required to be reported to SEC on an 8-K filing, so there is no reason that this crucial information should be withheld from stakeholders - whether or not the insurer is a public company.

This information is crucial to consumers as well as other stakeholders. In evaluating the purchase of an insurance product, a consumer needs transparency and access to the information about a prospective insurer, including outstanding regulatory issues, to make an informed decision. The filtering feature will allow consumers to identify and avoid insurers domiciled in states with higher incidences of compliance problems. Ratings from rating agencies don't tell the "whole story".

Adding data for the Appointed Actuary, CPA firm, CEO and CFO will assist in tracking and identifying individuals and firms associated with failed insurers and may reveal patterns of professional malpractice, as detailed in Chapter 4 of the NAIC Receivers' Handbook.