Draft date: 3/7/23

2023 Spring National Meeting
Louisville, Kentucky

RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE
Thursday, March 23, 2023
11:00 a.m. – 12:00 p.m.
Kentucky Convention Center—Ballroom B—Main Concourse Level

ROLL CALL
James J. Donelon, Chair, Louisiana, Troy Downing, Montana
Glen Mulready, Vice Chair, Oklahoma, Eric Dunning, Nebraska
Mark Fowler, Alabama, Marlene Caride, New Jersey
Lori K. Wing-Heier, Alaska, Mike Causey, North Carolina
Peni Itula Sapini Teo, American Samoa, Jon Godfread, North Dakota
Michael Conway, Colorado, Judith L. French, Ohio
Andrew N. Mais, Connecticut, Andrew R. Stolfi, Oregon
Dana Popish Severinghaus, Illinois, Michael Humphreys, Pennsylvania
Doug Ommen, Iowa, Elizabeth Kelleher Dwyer, Rhode Island
Vicki Schmidt, Kansas, Michael Wise, South Carolina
Sharon P. Clark, Kentucky, Carter Lawrence, Tennessee
Timothy N. Schott, Maine, Cassie Brown, Texas
Gary D. Anderson, Massachusetts, Mike Kreidler, Washington
Chlora Lindley-Myers, Missouri, Nathan Houdek, Wisconsin

NAIC Support Staff: Jane Koenigsman

AGENDA

1. Consider Adoption of its 2022 Fall National Meeting Minutes
   — Commissioner James J. Donelon (LA)  Attachment One

2. Consider Adoption of its Working Group and Subgroup Reports
   A. Receiver’s Handbook (E) Subgroup—Kevin Baldwin (IL)  Attachment Two
   B. Receivership Financial Analysis (E) Working Group—Donna Wilson (OK) and Jacob Stuckey (IL)
   C. Receivership Law (E) Working Group—Laura Lyon Slaymaker (PA)

3. Hear an Update on International Activities—Robert Wake (ME)

4. Hear a Presentation on a Receivership Training Proposal—Peter Gallanis (National Organization of Life and Health Guaranty Associations—NOLHGA) and Roger Schmelzer (National Conference of Insurance Guaranty Funds—NCIGF)  Attachment Three
5. Discuss Any Other Matters Brought Before the Task Force
   —Commissioner James J. Donelon (LA)

6. Adjournment
Receivership and Insolvency (E) Task Force
Tampa, Florida
December 14, 2022

The Receivership and Insolvency (E) Task Force met in Tampa, FL, Dec. 14, 2022. The following Task Force members participated: James J. Donelon, Chair, represented by Tom Travis (LA); Cassie Brown, Vice Chair, represented by Brian Riewe (TX); Lori K. Wing-Heier represented by David Phifer (AK); Michael Conway represented by Rolf Kaumann (CO); Andrew N. Mais represented by Jared Kosky (CT); Trinidad Navarro represented by Tom Hudson (DE); Colin M. Hayashida represented by Patrick P. Lo (HI); Doug Ommen represented by Kim Cross (IA); Dana Popish Seeringhaus represented by Kevin Baldwin (IL); Vicki Schmidt represented by Chut Tee (KS); Sharon P. Clark represented by Jeff Gaither (KY); Gary D. Anderson represented by Christopher Joyce (MA); Timothy N. Schott represented by Robert Wake (ME); Chlora Lindley-Myers represented by Shelley Forrest (MO); Troy Downing represented by Steve Matthews (MT); Eric Dunning represented by Justin Schrader (NE); Marlene Caride represented by David Wolf (NJ); Glen Mulready represented by Donna Willson and Jamin Dawes (OK); Michael Humphreys represented by Laura Lyon Slaymaker and Crystal McDonald (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Michael Wise represented by Ryan Basnett (SC); Carter Lawrence represented by Scott McAnally (TN); Jon Pike represented by Reed Stringham (UT); and Mike Kreidler (WA).

1. **Adopted its Oct. 11 and Summer National Meeting Minutes**

The Task Force met Oct. 11 and took the following action: 1) exposed a Request for NAIC Model Law Development to amend the *Property and Casualty Insurance Guaranty Association Model Act* (#540) for a 30-day public comment period ending Nov. 11; and 2) adopted a memorandum of understanding for pre-liquidation planning.

Phifer made a motion, seconded by Baldwin, to adopt the Task Force’s Oct. 11 (Attachment One) and Aug. 11 (see *NAIC Proceedings – Summer 2022, Receivership and Insolvency (E) Task Force*) minutes. The motion passed unanimously.

2. **Adopted a Request for NAIC Model Law Development to Amend Model #540**

Travis said the Task Force exposed a Request for NAIC Model Law Development to amend Model #540 for cybersecurity insurance for a 30-day public comment period ending Nov. 11. No comments were received.

Kaumann made a motion, seconded by Wake, to adopt the Request for NAIC Model Law Development to amend Model #540 (Attachment Two). The motion passed unanimously.


Baldwin said the Receiver’s Handbook (E) Subgroup plans to meet in December to adopt Chapters 3, 4, and 5 of the *Receiver’s Handbook for Insurance Company Insolvencies* (Receiver’s Handbook). At the same meeting, the Subgroup will expose Chapters 6 and 7 for public comment. Baldwin said the drafting groups are continuing to make progress on the remaining chapters.

Wilson made a motion, seconded by Phifer, to adopt the report of the Receiver’s Handbook (E) Subgroup. The motion passed unanimously.
Draft Pending Adoption


Wilson said the Receivership Financial Analysis (E) Working Group plans to meet Dec. 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.

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


Baldwin said the Receivership Law (E) Working Group met twice this fall to address the Request for NAIC Model Law Development to amend Model #540 related to the coverage of policies that are subject to restructuring mechanisms, specifically insurance business transfers (IBTs) and corporate divisions (CDs).

The Working Group exposed the original proposal and received comments and alternative amendments. The comments raised some additional considerations and scenarios specifically around novation and assumptions, as well as which sections of Model #540 may also be affected. Since those considerations needed to be discussed further before settling on a final draft amendment, a small drafting group of Working Group members, the National Conference of Insurance Guaranty Funds (NCIGF), and interested parties was formed and is working through those considerations. The drafting group met Nov. 30 and plans to have a second draft of amendments sometime after the new year. If the new Request for NAIC Model Law Development to amend Model #540 for cybersecurity insurance is adopted by the Executive (EX) Committee in early 2023, the Working Group will coordinate the delivery of both sets of amendments so they can be adopted and available for state legislative consideration at the same time.

Baldwin said the memorandum of understanding for pre-liquidation planning for property/casualty (P/C) insurers was adopted by the Task Force on Oct. 11 and was subsequently adopted by the Financial Condition (E) Committee on Nov. 15. The memorandum of understanding is posted to the Task Force web page and available for state insurance regulators’ use. The memorandum of understanding is an optional tool state insurance regulators and receivers can use to collaborate and share information with guaranty funds in the pre-liquidation planning period. The Working Group previously adopted sending referrals to the various working groups that maintain analysis and examination handbooks to include and/or reference the memorandum of understanding. Those referrals have been sent for consideration by those working groups in 2023.

Slaymaker made a motion, seconded by Gendron, to adopt the report of the Receivership Law (E) Working Group, including its Nov. 7 (Attachment Three) and Sept. 14 (Attachment Four) minutes. The motion passed unanimously.

6. **Heard a Report of the Receiver’s UDS Ad Hoc Group**

Slaymaker said the NCIGF has a technical group looking at making upgrades to the Uniform Data Standards (UDS). The ad hoc group are state insurance department volunteers led by Pennsylvania who met with the technical group to coordinate with the aim of gaining more buy-in from stakeholders and receivers. The technical group is looking for additional technical volunteers to participate in developing revisions. The technical group plans to meet again in the Spring of 2023.

7. **Discussed Takeaways from the TJA Related to Resolution**
Wake said the International Association of Insurance Supervisors (IAIS) adopted the Holistic Framework for Systemic Risk in the Insurance Sector (Holistic Framework) in 2019 with the goal of moving away from the top-down Global Systemically Important Institution (G-SII) designation process in favor of incorporating an activities-based approach and developing a set of standards better reflective of the tools and practices appropriate for the mitigation of systemic risk. The NAIC is happy to see the Financial Stability Board (FSB) Plenary last week endorse the Holistic Framework and announce that it has decided to discontinue the annual identification of G-SIIs. The FSB’s decision follows the conclusion of the IAIS Targeted Jurisdictional Assessment (TJA) to understand how key insurance market jurisdictions are progressing towards implementation of the Holistic Framework. The U.S. was one of 10 assessed jurisdictions, and to represent the U.S. system, Connecticut, New Jersey, and New York volunteered and participated in the assessment. The FSB’s determination was based on the Comprehensive Report delivered from the IAIS to the FSB in November 2022, and it largely focused on the outcomes of the Global Monitoring Exercise (GME) and collective discussion, in addition to the TJA. In recognizing the Holistic Framework as a superior approach, the FSB’s public announcement of its decision notes that it will continue to receive updates from the IAIS regarding further implementation of the Holistic Framework and outcomes from the annual GME. In its annual Resolution Report, the FSB will also publish a list of insurers subject to resolution planning and resolvability assessments by jurisdictional authorities. While the NAIC was outspoken in its criticism of this new list, in light of the movement away from identifying firms through lists, the NAIC will encourage the IAIS to maintain its role as the chief standard-setting body for the sector, including leading any future discussions on follow-up related to the Holistic Framework and the elimination of the G-SII list.

Wake said the primary focus of the TJA was on systemic risk monitoring, which generally falls under the purview of the Financial Stability (E) Task Force and the Macroprudential (E) Working Group. However, much of the practical review during the assessment period focused on the monitoring and oversight of large, internationally active insurance groups (IAIGs). As such, some of the takeaways from participating in the assessment have to do with how the NAIC might be able to improve in certain areas of its group supervision efforts. One area that stood out as a focal point during much of the assessment process was how U.S. state insurance regulators are working with their IAIGs in the areas of recovery and resolution planning.

Wake said for a few areas noted where the U.S. could use some improvement, in looking across the TJA results, the U.S. had a lot of company, and it was ahead of the curve in some of the common problem areas, such as the supervision of insurer information systems. The areas most identified as needing improvement for the U.S. were also areas identified as needing improvement in general: 1) recovery and resolution planning; 2) resolvability assessment; and 3) the establishment and operation of crisis management groups before a crisis is on the horizon. Wake said the banking sector is supposedly ahead of the insurance sector here, and banking supervisors have been driving the development of many of these standards in ways that are arguably excessively bank-centric, but banking supervisors have expressed concern that their systems are not necessarily as effective on the ground as they look on paper.

Schrader said he agrees with Wake’s report. He said the Group Solvency Issues (E) Working Group proposed collaborating with the Receivership and Insolvency (E) Task Force on a project to develop common tools or a template for use by U.S. lead states in discussing the U.S. resolution with other foreign jurisdictions to present a consistent message. A lot of the discussions occurs through supervisory colleges. The Working Group did not have this as a top priority in 2023 but would welcome coordination and involvement from the Task Force.

Kosky said Connecticut participated in the TJA. He said he agrees with Wake’s comments.

Jane Koenigsman (NAIC) said the template would include a summary of U.S. receivership laws and processes intended to be used by state insurance regulators when discussing the U.S. system for resolution with international jurisdictions or when asked for such information for resolution planning during supervisory colleges.
or crisis management groups. As Schrader indicated, this template would enable consistent messaging about the U.S. resolution system to other jurisdictions without each state having to re-write such a summary.

Travis said hearing no objection, the Task Force agrees to collaborate with the Working Group in 2023 to develop a template explaining the U.S. resolution laws and practices for use by lead state insurance regulators.

8. **Heard an Update on International Activities**

Wake said the IAIS Resolution Working Group had its first post-COVID-19 in-person meeting and finalized a new draft of the application paper on policyholder protection schemes, which has been sent for review to its parent committee, the Policy Development Committee (PDC), and the Macroprudential Committee (MPC). A meeting is tentatively scheduled for February 2023 to discuss further revisions in response to the PDC and MPC comments, and then the paper will be sent to the IAIS Executive Committee for public consultation.

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

SharePoint/NAIC Support Staff Hub/Member Meetings/E CMTE/RITF/2022 Fall NM/RITF_Minutes121422.docx
The Receiver’s Handbook (E) Subgroup of the Receivership and Insolvency (E) Task Force met Dec. 21, 2022. The following Subgroup members participated: Kevin Baldwin, Chair (IL); Miriam Victorian, Vice Chair (FL); Jared Kosky (CT); James Gerber (MI); Donna Wilson and Jamin Dawes (OK); Laura Lyon Slaymaker and Crystal McDonald (PA); and Brian Riewe (TX).

1. **Adopted its July 19 Minutes**

The Subgroup met Dec. 21 and took the following action: 1) adopted its July 19 minutes; 2) adopted Chapters 3–5 of the *Receiver’s Handbook for Insurance Company Insolvencies* (Receiver’s Handbook); and 3) exposed Chapters 6 and 7 of the Receiver’s Handbook.

Wilson made a motion, seconded by Kosky, to adopt the Subgroup’s July 19 minutes (Attachment Two-A). The motion passed unanimously.

2. **Adopted Revised Chapters 3–5 of the Receiver’s Handbook**

Baldwin thanked the volunteers who had participated in the drafting groups for the chapters of the Receiver’s Handbook.

Slaymaker made a motion, seconded by Victorian, to adopt Chapters 3–5 of the Receiver’s Handbook (Attachment Two-B). The motion passed unanimously.

3. **Exposed Revised Chapters 6 and 7 of the Receiver’s Handbook**

Chapters 6 and 7 had extensive revisions that were presented in the meeting materials as a clean copy.

The Subgroup reviewed changes to Chapter 7 by Patrick Hughes (Faegre Baker Daniels LLP) and Caryn M. Glawe (Faegre Drinker Biddle & Reath LLP). Additionally, it was noted that to view the original Receiver’s Handbook, the current Receiver’s Handbook version is posted on the Subgroup’s website under the documents tab.

Slaymaker made a motion, seconded by Victorian, to expose Chapters 6 and 7 of the Receiver’s Handbook for a 45-day public comment period ending Feb. 6, 2023. The motion passed unanimously.

Having no further business, the Receiver’s Handbook (E) Subgroup adjourned.
Solvency Regulation and The Resolution System:
2023 Tabletop Exercise

Background
NOLHGA and NCIGF propose holding a “tabletop” session on how commissioners, solvency regulators, receivership staff, and the guaranty system can produce the best outcomes for policyholders of troubled insurance companies, and how early and frequent planning and collaboration can best support insurance commissioners in achieving those outcomes. The session will be designed to:

- Promote communication among regulators, receivers, and guaranty system members about the regulatory and resolution systems and how they can best work together
- Identify key questions/issues for further research, process improvements, and regulatory development
- Determine areas for enhanced coordination and planning among regulators, receivers, and the guaranty system to improve policyholder outcomes

Overview
- The session would be a partial day event (3-5 hours), potentially connected to an NAIC meeting, conference, or training platform.
- A series of interactive panel discussions and breakout sessions would be built around a hypothetical troubled company scenario. Issues to consider include:
  - Early-stage decision making, communication, and information sharing
  - Transitions from oversight to rehabilitation to liquidation
  - Policyholder protection and communication
  - Guaranty system information, data, planning, and execution on consumer protection
  - Receivership court proceedings, other litigation, and third-party involvement/interest
  - Receivership execution

Participants
- State Insurance Commissioners
- Senior financial regulators and other insurance department personnel
- Receivership leaders (including RITF and its working groups)
- Guaranty system representatives

Planning
- In 2022, NOLHGA and NCIGF each held similar tabletop exercises (and received very positive feedback from participants). Using those as a starting point, we could support a “turnkey” session that would minimize demands on NAIC staff time.
- Because the Receiver’s Handbook Subgroup has been identifying resolution issues for updated analysis over the last year, the subgroup’s input on designing and executing on the session may be particularly valuable.
- Since an effective session will require coordination with solvency regulators, we suggest early-stage collaboration with FAWG to get input and participation.
- Holding the session around an existing NAIC meeting could increase attendance from stakeholders. We suggest a session in 2023, but adequate notice will be important in securing attendance.
- If successful, similar sessions could be conducted in future years to reach a broader audience and/or cover additional topics.