INSOLVENCY trends 2012

National Conference of Insurance Guaranty Funds NCIGF℠
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Welcome to the 2012 winter issue of the NCIGF's *Insolvency Trends*. Authored by the legal and public policy staff of the National Conference of Insurance Guaranty Funds (NCIGF), this paper provides an update on recent events in insolvency law and practice and a look ahead at what is on the horizon in the coming year.

SEE INSIDE FOR…

Updates on Dodd-Frank and other developments on Capitol Hill – and how they impact the state based insolvency system

Insurance insolvency developments – new liquidations this year – and a status of estates

Developments in state laws

Runoffs of troubled companies

International developments

Property and Casualty Guaranty Funds: Continuing to Evolve to Protect Policyholders

The guaranty fund system was established in 1968 by the property and casualty insurance industry, insurance regulators and states to provide a safety net that protects insurance consumers if an insurance company fails.

The guaranty fund system is an innovative and common-sense mechanism. The system draws first on the assets of the failed insurance company before turning to assessments of healthy insurers in each state. Since inception the system has paid out more than $27 billion to policyholders, beneficiaries and claimants related to more than 550 insolvencies.

Following liquidation, the statutorily created guaranty funds seamlessly step into the shoes of a defunct company and pay the covered claims of policyholders and claimants whose claims otherwise would go unpaid by an insolvent insurance company.

Today, the guaranty fund system remains true to its original intent: delivering protection to those least able to weather the impact of insurance company insolvencies.

GUARANTY FUNDS WORK

in partnership with insurance regulators to protect policyholders.

A state court finds an insurance company insolvent and orders it liquidated.

Policyholder claims files are transferred to the guaranty funds for servicing.

Covered claims are paid from a pool of money drawn from three sources made available at the time of the insolvency: a) the insolvent insurance company's remaining assets, b) cash already on deposit with state regulators and c) assessments on insurers licensed to write business in a state.

Payments are made promptly.

HOW THE GUARANTY FUND SYSTEM IS FUNDED

Recoveries

To the extent possible to fulfill guaranty fund statutory duties, monies are obtained from remaining estate assets.

- The insurance company's remaining assets (including reinsurance)
- Funds deposited with state regulators in certain states while the company is still writing business

Assessments from Insurers

Charged to insurance companies licensed to write business in a state

- Typical cap is 2% of "net direct written premium"
- Assessment is determined by the amount of money needed by the guaranty fund to supplement the funding pool described above
- Some guaranty funds have separate "assessment accounts" allowing them to segregate assessment billing and payments into various lines of business—a typical structure would be workers compensation, auto, and all other property & casualty lines covered by the funds

2011 – Implementation of Dodd-Frank and its impact on the state-based guaranty fund system

During 2011 the insolvency community analyzed the impact of the Dodd-Frank Wall Street Reform and Consumer Protection Act on the state-based system of guaranty association consumer protection. On the watch list were rule makings based on Dodd-Frank, formation of the new Federal Insurance Office (FIO), the Financial Stability Oversight Council (FSOC) and activities at the NAIC driven in part by responsibilities generated by Dodd-Frank related to resolution of “systemically important” financial institutions.

Dodd-Frank – and the role of the states

Dodd-Frank creates a new system for regulating large, interconnected bank holding companies and nonbank financial companies whose distress or failure could threaten the financial stability of the United States.

The law calls for large, interconnected financial companies that are systemically important to be identified by the Financial Stability Oversight Council (FSOC) chaired by Treasury Secretary Timothy Geithner. Systemically important financial companies could include insurance companies and insurance holding companies, although most observers contend that few – if any – insurers are systemically significant. Once identified, these companies will be subject to stringent regulation by the Federal Reserve Board.

The legislation also creates a new mechanism for liquidating systemically important financial companies whose failure could destabilize the economy. **While the Federal Deposit Insurance Corporation (FDIC) will be appointed receiver of – and liquidate – most types of financial companies, insolvent insurers (including any deemed systemically important) will remain subject to state receivership and guaranty association processes.**

Resolution of systemically important financial companies will be funded by a post-liquidation resolution fund. If any insurers are tapped to contribute to such a fund, the amount of their contributions will take into account guaranty fund assessments already paid.

Even though insurer insolvencies will be conducted under state law, the FDIC could be appointed receiver of certain subsidiaries of an insurance company if those companies are in default or in danger of default, if their failure would have a significant adverse effect on the U.S. economy, and certain other criteria are met. Any value remaining after claims are paid would be paid to the parent company.

Federal Insurance Office

As 2011 drew to a close, Michael McRaith, the new head of the Federal Insurance Office, (FIO) and former director of the Illinois Department of Insurance was studying how to improve and modernize insurance regulation as required under Dodd-Frank. The results of the study will be reported to Congress no later than January 2012. As part of the study, the FIO is charged with examining the potential consequences of subjecting insurance companies to a federal resolution authority.

While there was much speculation about what kind of information would be requested by the FIO for the purposes of this study, the request for public input remained focused on the specific matters addressed in Dodd-Frank. For property and casualty guaranty associations the focus of the queries was:

1. The operation of state insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a federal resolution authority; and

2. Policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims.

NCIGF, NOLHGA Weigh In on FIO Study and U.S. House Oversight of Dodd-Frank

On December 16, 2011 the National Conference of Insurance Guaranty Funds (NCIGF) and the National Organization of Life & Health Insurance Guaranty Associations (NOLHGA) filed joint comments with the Federal Insurance Office (FIO).

The comments were submitted in response to the request by the FIO for public input on “How to Modernize and Improve the System of Insurance Regulation in the United States” for a report to Congress called for by Dodd-Frank.

The comments can be read here.

In addition, On November 16, 2011 Roger Schmelzer, President of the NCIGF, submitted testimony to a U.S. House of Representatives Financial Services Insurance, Housing and Community Opportunity Subcommittee on the topic of Insurance Oversight & Legislative Proposals.

The testimony informed committee members about how the state insurance guaranty systems work to protect insurance policy holders, and provided an assessment about the financial strength of the guaranty fund system.

Click here to view the testimony.

NOLHGA also submitted testimony. View that here.

Rulemaking

This year has brought about much activity with regard to federal rulemaking based on Dodd-Frank. Among the significant rules that have been adopted are the Federal Reserve and FDIC Final Rule on Resolution Plans and the FDIC Final Rule on Certain Orderly Liquidation Authority Provisions Under Title II of Dodd-Frank.

Final Rule on Resolution Plans
The Federal Reserve and FDIC adopted a final rule to implement Section 165(d) of Dodd-Frank. This provision requires bank holding companies with assets of $50 billion or more and nonbank financial companies designated as systemically significant by the Financial Stability Oversight Council to report periodically to the FDIC and the Federal Reserve the company's plan for its rapid and orderly resolution in the event of material financial distress or failure.

The Final Rule requires the company to describe its plan of how it could be resolved in a bankruptcy proceeding. (If a company covered by the rule is subject to an insolvency regime other than the Bankruptcy Code, the analysis should be in reference to that regime.) The goal is to achieve a rapid and orderly resolution of an organization in such a way as not to cause a systemic risk to the financial system. The final rule also sets specific standards for the resolution plans, including requiring a strategic analysis of the plan's components, a description of the range of specific actions to be taken in the resolution, and analysis of the company's organization, material entities, interconnections and interdependencies, and management information systems among other elements.

Submission of resolution plans will be staggered based on the asset size of a covered company's U.S. operations. Companies with $250 billion or more in non-bank assets must submit plans on or before July 1, 2012. Companies with $100 billion or more in total non-bank assets must submit plans on or before July 1, 2013; and companies that predominately operate through one or more insured depository institutions must submit plans on or before December 31, 2013. Plans are required to be updated annually. A company that experiences a material event after a plan is submitted has 45 days to notify regulators of the event.

However, if any major subsidiary of a covered company is subject to an insolvency regime other than the Bankruptcy Code (such as an insurance company), the covered company may exclude that subsidiary from its strategic analysis unless that subsidiary either has $50 billion or more in total assets, or conducts a critical operation.

Orderly Liquidation Rule
Title II of Dodd-Frank creates a new resolution mechanism for liquidating financial companies that the federal government determines are in default (or in danger of default) and whose failure would have serious adverse effects on the U.S. economy. While the FDIC will be appointed receiver of most of such entities (which are called covered financial companies), all insurers will remain subject to state receivership and guaranty fund processes. Among other things, the

FDIC's orderly liquidation rule limits the circumstances in which the FDIC may take a lien to secure repayment of federal funds advanced to a covered financial company or its covered subsidiaries.

Section 204(d) of Dodd-Frank (codified at 12 U.S.C. 5384(d)) authorizes the FDIC, following its appointment as receiver, to "make available to the receivership … funds for the orderly liquidation of the covered financial company." In so doing, the FDIC may (i) provide funding to a covered financial company and/or its covered subsidiaries, and (ii) secure repayment by taking a lien on certain assets. The NCIGF and NOLHGA initially were concerned that the FDIC could lend money to the covered financial company and secure repayment with a lien on assets owned by the covered subsidiaries that are downstream from the insurance company. This could potentially compromise the pool of assets available to secure policyholder claims.

As initially proposed, the FDIC orderly liquidation rule implementing Title II of Dodd-Frank did not allay the organizations' concerns. However, the interim final rule subsequently adopted in January 2011 included a key change: the FDIC would take a lien only on the assets of covered subsidiaries that receive FDIC funding.

Dodd-Frank Working Group

To work effectively in the Dodd-Frank framework the NAIC formed the "Dodd-Frank Receivership Implementation Working Group." Its 2011 charge was as follows:

> Review and consider portions of the recently adopted Dodd-Frank Wall Street Reform and Consumer Protection Act to determine what, if any, state laws, regulations or procedures are necessary for state receivers and the NAIC to be prepared for its requirements related to receivership activities, as well as, monitor, review and provide input on federal rulemaking and studies related to insurance receivership.

Pursuant to its mission the Dodd-Frank working group prepared a new chapter for the "Receivers Handbook" to specifically lay out how a state would respond to the insolvency of a systemically important insurance company, an event the chapter drafters characterized as the result of an "extraordinarily remote set of circumstances." The chapter responded to the following considerations:

1. Establishing processes at the state level to ensure the state receivership mechanism will respond effectively to a Dodd-Frank receivership;

2. Analyzing and preparing for the situation in which an insurance company is a subsidiary or affiliate of a covered financial company;

3. Describing national coordination initiatives to ensure the national state-based systems provide further support to administering a Dodd-Frank receivership;

4. Developing state laws that will ensure that the state mechanisms can effectively initiate and administer a Dodd-Frank receivership.

The chapter also provided a guideline for states to use in reviewing their authority under existing state law for purposes of initiating conservation, rehabilitation or liquidation proceedings in accordance with the federal statute. This guideline was adopted by the NAIC in November 2011. States are already considering shoring up their laws in this regard. Texas has a statute in place and a draft is being floated in Illinois. We would expect more states to follow suit in the 2012 sessions.

The Financial Stability Oversight Council (FSOC)

The Financial Stability Oversight Council was established by Dodd-Frank. It is charged with three primary purposes:

1. To identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace.

2. To promote market discipline by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the U.S. government will shield them from losses in the event of failure.

3. To respond to emerging threats to the stability of the U.S. financial system.

Pursuant to the Dodd-Frank Act, the Council consists of 10 voting members and five nonvoting members and brings together the expertise of federal financial regulators, state regulators, and an insurance expert appointed by the President.

Insurance representatives now include Roy Woodall (a voting member) along with Missouri Insurance Director John Huff and FIO Director Michael McRaith.

In the States…

Guaranty Fund Act Developments

While the state legislatures were relatively quiet on guaranty fund issues in 2011, a couple of noteworthy events came out of the year's legislative sessions. Among these, the California Guarantee Association's authority to borrow through a bond issue has been extended until 2023. This will insure that the fund continues in the future to service a large portfolio of workers' compensation claims – which currently sits at about 33,000 files. [1]California, like virtually all state guaranty associations, pays workers' compensation benefits without a covered claim limit, insuring that injured workers continue to be taken care of – even if their employer's workers' compensation carrier becomes insolvent.

Interest continues in the latest version of the NAIC's Property and Casualty Insurance Guaranty Association Model Act. This latest revision of the longstanding NAIC model, on which most state property and casualty guaranty association acts are based, was adopted by the NAIC in 2009.

It is clear that states, while expressing interest in the model, are cautiously evaluating how the specific provisions of this legislative scheme would impact their guaranty funds. Their best source of information in this regard is the local guaranty fund manager who is available to provide technical advice on any proposed changes. A bill was floated in Connecticut this year to amend the guaranty fund act in accordance with the NAIC model, but it failed to progress through the legislature. We expect that other states will be reviewing this new law in 2012, and some will make targeted efforts to enact its provisions. States that have already adopted in part the NAIC model are Illinois, Iowa, Oklahoma, Louisiana and Rhode Island. The NAIC continues to monitor its progress in the states.

Liquidation Act Developments

While it's been some time since there has been an attempt to propose a comprehensive liquidation act bill based on the Insurer Receivership Model Act, (IRMA) we have seen IRMA language regarding treatment of swaps and derivatives, investment vehicles used by insurance companies, proposed in several states. According to the NAIC 17 states have so far adopted IRMA swaps language, which continues to be a matter of interest to both property and casualty and life and health insurance companies – both of which use these devices to some extent. The NAIC is studying the impact of the swaps language on companies in receivership as well as studying the broader impact on the insurance market.

[1] Workers' Comp Executive. November 30, 2011. Pg 6.

More New Insolvency Activity

The property and casualty guaranty fund system, as always, stands ready to fulfill its statutory mission to protect policy claims in the event of an insolvency. From 2008-2011 23 property and casualty companies went into liquidation. The Florida guaranty funds were particularly heavy hit with many single state or regional companies being put down in this hurricane-prone area. The list of new liquidations is as follows:

Name of Company	Liquidation Date	State of Domicile	Type of Company	States Licensed
New Jersey Exchange Insurance Company	02/11/08	NJ	Auto, Commercial	NJ
MIIX Insurance Co	04/09/08	NJ	Fire, Allied, CMP, ITO, Ocean, IM, Medical Malpractice, WC	NJ, PA, NY, TX, OH, MI, MD
Coral Insurance Co.	04/09/09	FL	Homeowners	FL primarily
Consumer First Insurance Company	07/21/09	NJ	Auto	NJ
First Commercial Insurance Co.	08/24/09	FL	WC, Commercial, auto, general liab, commercial multiperil	FL, GA
First Commercial Transportation and Property Insurance Co.	08/24/09	FL	Commercial auto	FL only
American Keystone Insurance Co.	10/09/09	FL	Homeowners	FL primarily
Southeastern U.S. Insurance Inc.	10/27/09	GA	WC	GA
Park Avenue Property and Casualty Insurance Co.	11/18/09	OK	WC	28 states—most claims liabilities in FL and GA
Imperial Casualty and Indemnity Insurance Co.	03/18/10	OK	WC	All states except FL, ME, MA, NY
Magnolia Insurance Co.	04/20/10	FL	Homeowners	FL only
Northern Capital Insurance Company	05/01/10	FL	Homeowners', automobile and inland marine	FL only
Financial Advisors Assurance Select RRG	05/20/10	NV	Errors and omissions	NV
Titledge Insurance Company of New York	06/16/10	NY	Title	NY
Pegasus Insurance Co.	08/12/10	OK	WC, minimal private pasenger auto liability physical damage	27 states
Long Island Insurance Co.	10/19/10	NY	Private passenger auto and physical damage	NY
Constitutional Casualty Co.	01/03/11	IL	Private passenger auto and homeowners multiple peril insurer; some commercial liability	IL only
Aequicap Insurance Co.	03/07/11	FL	Commercial auto	FL primarily, GA, OK, SC
Seminole Casualty Insurance Company	03/15/11	FL	Personal and commercial auto	FL and MD primarily
Western Insurance Group	09/13/11	UT	Surety	Licensed in 35 states
National Group Insurance Company	10/10/11	FL	Commercial auto, commercial property	FL and GA (all claims are in FL)
HomeWise Insurance Company	11/18/11	FL	Primarily homeowners insurance	FL and LA
Southern Eagle Insurance Company	12/16/11	FL	WC	FL

Several of these companies were liquidated with little advance notice to the guaranty funds. They involved complex issues, and included claims of injured workers and other claimants whose periodic claims payments would be interrupted without the early intervention of the guaranty funds working in full cooperation with the estate receivers. That these insolvencies continue to occur again demonstrates the continued need for a guaranty fund system that is prepared to handle covered claims of insurance consumers. Moreover, early coordination and cooperation between the guaranty funds and the receivers of the insolvent insurance companies is critical to the continued ability of the system to protect policy claimants in a timely manner.

For comprehensive information on the companies the guaranty funds are handling with payout information please see our Web site at *www.ncigf.org.*

Estate Distributions and Closing Efforts

A critical component of the guaranty funds' ability to timely pay claims of insolvent insurance companies are the distributions of remaining assets of the insolvent estates. Guaranty funds work together with estate liquidators to insure that guaranty fund loss and expense payments are timely reported and legal documentation is in place to permit available funds to flow to the guaranty associations on an expedited basis.

In 2010, the most current year information is available, the guaranty funds recovered more than $1.3 billion from the insolvent companies' estate assets and statutory deposits.

Closing efforts continue in several jurisdictions. The liquidator for the two Credit General estates in Ohio (Credit General Insurance Company and Credit General Indemnity) expects to close the estates in one to two years. American Mutual continues to work toward closing. In preparation the liquidator has settled up with the guaranty funds for the values of their paid and unpaid workers' compensation liabilities and the Court approved a distribution of $100 million to Class 2a creditors (predominantly guaranty associations) in April 2011. Opened in December 1985, the estate of Transit Insurance Company took another step toward closure in February 2011 when the court approved an order authorizing the destruction of certain records and authorizing the liquidator to retain other records for a period of five years beginning in 2012. The liquidator reported that all outstanding policy claims against the estate have been resolved, and is awaiting a response from the U.S. Department of Justice on a possible IRS tax claim. The liquidator will seek to have the claim barred if it is not filed by the end of 2011. The liquidator expects to make a final distribution to the guaranty associations of 1% in early spring 2012, after which the estate will be closed except for a minimal administrative function to allow access to remaining records and to oversee the approved record destruction at the close of the five year retention period. The liquidator for State Capital Insurance Company filed a petition with the court seeking to make a first and final distribution to the guaranty associations and to close the estate. In the petition, the liquidator seeks to distribute $7.2 million to the associations for their claims and claim administration expenses, resulting in a 100 percent distribution.

International Developments

The OECD Studies Guarantee Schemes
The Organization for Economic Cooperation and Development (OECD) has released for comment a final draft white paper designed to investigate policyholder protection schemes in OECD member countries and selected non-OECD countries. "It examines the rationale for a policyholder protection scheme; the relationship between certain design features and moral hazard; the role of a policyholder protection scheme within the overall resolution framework; and some cross-border features of these schemes. While the paper focuses on protection schemes for policyholders, it seeks to draw lessons from compensation schemes in the banking and occupational pension fund sectors, while recognizing sectoral differences." The state-based system in the United States is featured in this paper along with a wealth of information on various guaranty schemes throughout the world. The paper, when released, will be a good "drill down" piece for anyone wishing to gain knowledge of the status and coverage parameters of various insurance policy protection schemes throughout the world.

NAIC's Solvency Modernization Initiative (SMI)
According to the NAIC's Web site under Solvency Modernization Initiative, "SMI is a critical self-examination to update the United States' insurance solvency regulation framework and includes a review of international developments regarding insurance supervision, banking supervision, and international accounting standards and their potential use in U.S. regulation." SMI has been described as the NAIC looking at all the "tools" in its "tool box" and deciding what stays, what goes and what needs to be changed. The current plan is to have all major policy decisions completed by the end of 2012.

SMI oversees five key issues:
1.Capital Requirements
2.Governance and Risk Management
3.Group Supervision
4.Statutory Accounting and Financial Reporting
5.Reinsurance

There are three topics the NAIC is studying that could potentially have impact on the property and casualty guaranty associations. The first topic is the NAIC's adoption during the fall 2011 meeting of the ORSA (Own Risk Solvency Assessment) Guidance Manual. The manual provides general guidance to an insurer or insurance group for completing the annual ORSA report which will be required each year by many insurers. The NAIC's ORSA, which is expected to pass muster with Europe's ORSA, will be a regulator resource to assess and monitor insurers' and groups' risk management processes, align regulatory requirements with business practices and the insurers' ability to withstand stresses. The NAIC's ORSA, as encouraged by industry, is less burdensome than Europe's to complete. ORSA implementation activities currently underway suggest an effective date of 2014.

International Accounting is the second item of interest. It is uncertain whether the U.S. will adopt the International Financial Reporting Standards (IFRS). Because Statutory Accounting evaluates GAAP accounting and makes adjustments when called for, statutory accounting will be affected by whichever method (U.S. GAAP vs. IFRS) is adopted by the U.S. The NAIC has shown some interest in adopting the international (IFRS) standard. Some maintain it may be more difficult to assess solvency if the U.S. moves towards IFRS because it is principles-based and therefore more subjective than the U.S. rules-based method.

The third item is the U.S.-based Financial Accounting Standards Board and London-based International Accounting Standards Board's convergence project on insurance contracts. Information on this topic is shown on the NAIC and AICPA Web sites. International accounting's insurance contracts exposure draft does not distinguish the differences in practices between life and property and casualty insurers, especially with regard to short-term contracts. The international body's exposure draft includes probability – weighted cash flows for short-term contracts. This method would not be useful to users of financial statements and could make it difficult to detect insolvencies. The NAIC has been working with the IASB to develop two models – one for life insurance contracts and another for non-life insurance contracts.

Runoff Proposals
In some cases a state regulator will attempt to resolve a troubled company's claims by means other than a statutory liquidation. In these cases the guaranty funds are not activated. Proponents for alternative approaches cite orderly claims processing, low cost, and greater flexibility to achieve commercially acceptable results. However, the efficiency and cost-effectiveness of an alternative – versus a statutory liquidation – to our knowledge has never been established. In fact, there are many questions about how a prolonged run-off, versus a statutory liquidation, would impact the various stakeholders, including policy claimants.

Rhode Island statute used in GTE
Rhode Island is the only state to have a law in place regarding run offs. For the first time a proposal has been approved by the court for a commutation pursuant to the Rhode Island Statute. This matter involves assumed reinsurance business written by GTE Reinsurance Company Limited. GTE novated remaining non-related business and re-domesticated its assumed reinsurance block to Rhode Island. A commutation plan was approved on June 25, 2010. There is no direct insurance business involved. Four hundred and forty cedants remained, and all had a vote on the commutation plan. The Court last April ordered that the plan be implemented – over the objection of several creditors. The order is now under appeal.

Highlands (in rehabilitation)
Highlands was placed into receivership in Travis County, Texas, in November 2003. In 2007 the court approved the Second Amended Plan of Rehabilitation. Under the terms of the plan, the receiver was ordered to administer a Monitoring Plan to ensure the estate will continue to have sufficient funds to pay the company's claims as they come due. As of the end of the third quarter of 2011, the estate held total assets of $217 million against total liabilities of $403 million. The Highlands Coordinating Committee continues to monitor the rehabilitation and meets periodically with the Special Deputy Receiver.

Frontier (in rehabilitation)
Frontier Insurance Company, a New York domestic, was placed into rehabilitation in October 2001. In early 2010, the California Insurance Commissioner petitioned the New York court to have Frontier placed into liquidation. The motion was denied on procedural grounds, but the court ordered the rehabilitator to file with the court a detailed plan for restoring the company to solvency. The court's deadline for filing the rehabilitation plan has been extended several times. As of this writing, the plan was due to be filed by January 9, 2012.

Lumbermens
The Lumbermens, formally Kemper, companies have been in run-off since 2003. Most current financials available indicate the company makes use of statutory law known as "permitted practices" which allows a company to discount various claim reserves held on their books.

Lincoln General
On February 9, 2009, Lincoln General discontinued the writing of new business and began a process that would result in a voluntary, solvent run-off of all business. Third quarter 2011 financials indicate a policyholder surplus of approximately $2 million after augmentation for permitted practices which increase reserves by a total of almost $15 million. The acquisition of control by Tawa plc ("Tawa") of all the issued and outstanding shares of common stock of Lincoln General Insurance Company was approved by the Pennsylvania Insurance Department on October 5, 2011. Tawa is an entity that manages the run-off of non-life insurance companies and portfolios of policies.

Medicare Secondary Payer

The Medicare Secondary Payer provisions in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 impose information reporting requirements on insurance companies and other entities that provide payments pursuant to non-group health insurance plans, including liability insurance, self insurance, no fault insurance, and workers' compensation insurance plans. Failure to comply may result in a fine of $1000 per day per file. Property and casualty guaranty funds are likewise adhering to these obligations.

The MARC (Medicare Advocacy Recovery Coalition) is a group formed to advocate for improvements in Medicare Secondary payer (MSP) system. MARC is made up of a group of entities affected by the Medicare reporting requirements; this includes attorneys, brokers, insureds, insurers, insurance and trade associations, self insureds, and third party administrators. (Additional information is available on MARC's Web site at www.marccoalition.com.)

MARC is seeking support for HR 1063, federal legislation introduced in March 2011 to enhance efficiencies, add reasonable statutes of limitations and amend provisions relating to fines for compliance violations.

This bill is showing some momentum in the US Congress; consequently some possibility exists that the reporting requirements, which many consider burdensome, may change in the future.

To learn more…

More information about the property and casualty guaranty fund system is available on our Web site at *www.ncigf.org.*

Look for a new issue of NCIGF's *Insolvency Trends* in July 2012.

The NCIGF is a nonprofit association incorporated in December 1989 and designed to provide national assistance and support to the property and casualty guaranty funds located in each of the fifty states and the District of Columbia.

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