
To: State Insurance Departments
From: Financial Condition (E) Committee
Date: July 17, 2017
Re: Recognition of Stays and Injunctions in Receivership

On July 17, 2017, the Financial Condition (E) Committee adopted a recommendation from the Receivership and Insolvency (E) Task Force to encourage state departments of insurance to consider enhancements to state receivership and insolvency laws to provide e of its charges the following:

Continue to study the states' receivership laws and practices in comparison to the Financial Stability Board's (FSB) Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes) and its corresponding assessment methodology. Identify and provide recommendations for possible enhancements to the U.S. receivership regime based on the study, as well as recommendations to the FSB for possible future enhancements to either the Key Attributes or the assessment methodology.

To address this charge, the Working Group identified several key topics for consideration. One primary enhancement to the U.S. receivership regime is to address differences in state laws and practices related to receivership stays and injunctions. Recommendations outlined in Attachment A for recognition of receivership stays and injunctions were adopted by the Working Group on May 16, 2017 and by the Receivership and Insolvency (E) Task Force on June 28, 2017. Attachment A details background information regarding this topic and a recommendation for state insurance departments' consideration.

The Committee supports the guidance and recommendations of the Task Force and its Working Group as outlined in Attachment A and requests states to consider these enhancements to their practices.

If you have any questions please contact NAIC staff, Jane Koenigsman, jkoenigsman@naic.org

Attachment A

Receivership Model Law (E) Working Group
Guidance Regarding Recognition of Receivership Stays and Injunctions

Introduction

Recommendations

An effective stay provision promotes judicial economy and predictability, which benefits all participants in the receivership process. However, the significant improvements in the NAIC Model regarding stays have not been widely adopted. States should review their receivership laws, and consider the following:

- 1) States with no stay provisions, or provisions based on older NAIC models should compare their laws to the more recent NAIC Models, and evaluate the benefits of a more comprehensive stay.
- 2) States with no reciprocity provisions or provisions based on older NAIC models should consider adopting a provision similar to IRLMA § 5 (C) (2) or IRMA § 1002 (A). In the alternative, a state could update its definition of a reciprocal state to include any state that has adopted an act that is substantially similar to any of the receivership model acts promulgated by the NAIC.

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