

ACLI's Principles and Guidelines ("Principles") on Insurance Business Transfer & Corporate Division Legislation

Policyholders and Other Impacted Stakeholders Must Have Access to the Process

- All transactions must be subject to a public hearing.
- Individual policyholders, reinsurers, applicable state regulators, guaranty associations, and any other persons determined by the regulator must receive notice of the proposed transaction.

The Regulatory Review Process Must Be Robust

- The Commissioner's review process must include certain findings, including:
 - The financial condition of an involved insurer will not jeopardize the financial stability of the insurers, or prejudice the interest of its policyholders or reinsurers;
 - An involved insurer will not have plans or proposals to liquidate another involved insurer, sell its assets, or consolidate or merge or to make any other material change in its business or corporate structure or management, that are unfair or unreasonable to policyholders, reinsurers or the public;
 - The involved insurers will be solvent at the time of the transaction;
 - The assets allocated to the involved insurers will not be, at the time of the transaction, unreasonably small in relation to the business and transaction;
 - The terms of the transaction will not be unfair or unreasonable to any involved insurer's policyholders or reinsurers;
 - The competence, experience and integrity of the persons who would control the operation of an involved insurer are such that it would be in the interest of the involved insurers' policyholders and reinsurers and the general public to permit the transfer;
 - The transaction is not likely to be hazardous or prejudicial to the insurance-buying public;
 - The interest of the policyholders of an involved insurer that may become policyholders of another insurer will be adequately protected; and
 - The transaction is not being made for purposes of hindering, delaying or defrauding any policyholders or reinsurers.
- In determining whether to approve the transaction, the regulator must consider, among other things, all assets, liabilities, cash flows and the nature and composition of the assets proposed to be transferred including, without limitation:
 - An assessment of the risks and quality (including liquidity and marketability) of the proposed transfer portfolio, and
 - Consideration of asset/liability matching and the treatment of the material elements of the portfolio for purposes of statutory accounting.

Independent Experts Must be Utilized as Part of the Process

- An independent expert is required for all transactions and the expert's report must address:
 - Business purposes of the proposed transaction;
 - Capital adequacy and risk-based capital (including consideration of the effects of asset quality, non-admitted assets and actuarial stresses to reserve assumptions);
 - Cash flow and reserve adequacy testing (including consideration of the effects of diversification on policy liabilities);

- The impact, if any, of concentration of lines of business following the transaction;
- Business plans; and
- Management's competence, experience and integrity.

Court Approval is Required for Insurance Business Transfer Transactions, but Not Necessarily for Corporate Division Transactions

- For insurance business transfer transactions, court approval is required.
- For corporate division transactions, court approval is not required, provided the Principles relating to public hearing, notice, and independent expert report(s) are included in the analysis.

Policyholders and the State-Based Guaranty Association System Should Be Protected

- Involved insurers must be licensed such that policyholders maintain guaranty association coverage in the same state in which they had it immediately prior to the transaction.

NOTE: Regulations and practices (legal, actuarial, etc.) will develop over time for both insurance business transfers and corporate divisions. The ACLI shall remain engaged to ensure that such development is consistent with these Principles. The ACLI shall look to the U.K. Part VII Transfer statutes, regulations, guidance and practices to guide its engagement and advocacy.