

# **P&C Insurance Consumer Protections and Business Restructuring Mechanisms**

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# The Public Policy Goal

## **Guaranty Fund coverage cannot be disrupted by these transactions**

- If a state does consider legislation, everyone should be concerned with making sure a claim that had GA coverage prior to the restructuring would continue to have coverage after restructuring in the event the restructured company later became insolvent
- A statute should either reflect or not be inconsistent with this goal

**Continued protection of policy claimants the system is intended to protect!**

# NCIGF Objectives

- **Emphasize priority of GF coverage**
  - **Serve as a resource for policymakers**
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- Need agreement on the goal
  - Various proposals to get there
  - Each proposed statute has been a little different
  - Interests must be balanced
  - Don't know what works and what doesn't yet
  - “Solutions” must respond to identified challenges

# How Property & Casualty Guaranty Funds Work

- Funded through assessments, estate recoveries and (in some states) deposits
- Adjust and pay claims similar to how such claims would be handled by an insurance company
- Key difference from life and health GAs: **NO ORPHAN STATUTES!**

# Critical Question #1

## “Typical” statutory definition of a Covered Claim

Requires policy to be issued by an insurer if such insurer becomes an insolvent insurer.

In a restructuring transaction the **policy may not be issued** by the same insurance company that becomes insolvent.

# Critical Question #2

## “Typical” statutory definition of an Insolvent Insurer

"Insolvent insurer" means an insurer licensed to transact insurance business in this state, either at the time the policy was issued or when the insured event occurred,

The insurer that becomes insolvent **may not be licensed at all.**

The insurer that becomes insolvent may not have been licensed at the time the policy was issued. **It may not have even existed at that time.**

The insurer that becomes insolvent may **not have been licensed when the insured event occurs** – it could be a brand-new company formed for the purpose of the restructuring transaction.

# Answers?

**We are working on it. Very early in the process.**

**Above all:** We want to assure that the claimants the intended to be protected by the GF system, **as a matter of public policy**, do not lose that protection

The NCIGF Public Policy and Legal Committees are studying the issue

**I will keep you advised of our progress  
NCIGF available to NCOIL**

# Thank You!

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