



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
) C.A. No. 8601-VCZ
INDEMNITY INSURANCE CORPORATION,)
RRG, IN LIQUIDATION)

**ORDER TO SHOW CAUSE CONCERNING THE RECEIVER'S
VERIFIED PETITION FOR APPROVAL OF TWO PLANS
CONCERNING THE PROOF OF CLAIMS PROCESS AND THE
SERVICE OF RELATED FILINGS BY THE RECEIVER**

Please read this Order carefully as it might affect your rights concerning Indemnity Insurance Corporation, RRG, in Liquidation ("IICRRG"). If you do not file a timely response to the Receiver's Petition for Approval of Two Plans Concerning the Poof of Claims Process and the Service of Related Filings by the Receiver (the "Petition") in accordance with the instructions in this Order, any objection to this Order and any objection to or comments you have concerning the relief sought by the Receiver of IICRRG, will be deemed waived and the Court may adjudicate the Receiver's Petition and the relief sought therein on that basis. (If you have no objection or comment concerning the Petition or the relief sought therein, you do not need to take any further action in response to this Order to Show Cause.)

Please be advised that the Petition relates only to the *procedure* to be used to determine claims and objections to claims. This includes the procedure for a claimant to file an objection to a claim determination with the

Court. You need not file an objection to the Petition to preserve your right to later file an objection to the Receiver’s claim determination in accordance with the Receiver’s Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court referenced below and in the Petition.

WHEREAS, pursuant to 18 *Del. C.* §5902(a), the Receiver of IICRRG filed the *Receiver’s Verified Petition for Approval of Two Plans Concerning the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court* (“Petition”) seeking to have the Court approve: (1) the Receiver’s Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court; and (2) the Receiver’s Plan Regarding the Service of the Receiver’s Public Court Filings Concerning the Proof of Claims Process which plans are appended to the Petition as Exhibits A and B respectively.

WHEREAS, the relief requested in the Petition included that an Order to Show Cause be entered setting a date for objections to be filed, if any, to either or both of the plans, and that the Order to Show Cause be served in accordance with the methods and procedures contained in the Service Plan as they address the service of public filings made by the Receiver concerning the Proof of Claim process.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

HEARING

1. A hearing on the Petition has been scheduled for *Tuesday, August 18, 2020, at 11:00 a.m.* If there are no objections filed by the deadline of **July 17, 2020**, the hearing might be cancelled at the discretion of the Court. Please review the Objection Procedure and Objection Deadline set forth in Paragraph 2 below.

OBJECTION PROCEDURE AND OBJECTION DEADLINE

2. Any interested party who has an objection to the petition must file such objection with the Court so that the objection is actually received by the Court on or before July 17, 2020 (the “Objection Deadline”). If an interested party does not file an objection on or before the Objection Deadline, any objection which such party has to the petition or the relief sought therein may be deemed to have been waived, and the court may grant the receiver’s Petition and approve the plan.

3. Any objection must be filed in writing on or before the Objection Deadline by Delaware counsel through electronic service as required by the Court’s Rules or by unrepresented individuals with the Court at the Court's address at:

Register in Chancery
Court of Chancery of the State of Delaware
Leonard L. Williams Justice Center
500 North King Street, Suite 11600
Wilmington, DE 19801

and shall include the following information:

- a. The caption of these proceedings:

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF)
THE LIQUIDATION OF) C.A. No. 8601-VCZ
INDEMNITY INSURANCE)
CORPORATION, RRG)

- b. the nature of the document being filed (i.e., Objection to the Receiver’s Petition for Approval of the Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court or Objection to the Receiver’s Petition for Approval of the Plan Regarding the Service of the Receiver’s Public Court Filings Concerning the Proof of Claims Process);
- c. the name, address, and telephone number of the person filing the document;
- d. the date the document is being filed; and
- e. the grounds for such party’s objection to the Petition and the relief sought therein.

Please note that corporations and other entities are required to be represented by Delaware counsel to appear before the Court.

NOTICE OF THIS ORDER TO SHOW CAUSE

4. Within ten (10-5) business days of receipt of this signed Order to Show Cause, the Receiver shall serve copies of this Order to Show Cause, the Petition, Exhibits “A” and “B” to the Petition, and the proposed form of Order to grant the Petition by sending a postcard or similar mailing via the United States

Post Office to each claimant who filed a Proof of Claim in this liquidation proceeding in substantially the form:

Indemnity Insurance Corp., RRG (“IICRRG”) in Liquidation

IMPORTANT NOTICE OF COURT FILING

A FILING HAS BEEN MADE WHICH MAY AFFECT YOUR RIGHTS. On [Month] [day], [year] the Court entered an Order to Show Cause concerning the Receiver’s Petition for Approval of Two Plans Concerning the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court (the “Filing”). You may view or print a copy of the Filing (which includes the Petition) by opening the URL at https://insurance.delaware.gov/divisions/rehab_bureau/rehab_bureau_iicrrg and choosing the link for the Filing.

You may request a copy of the Filing by mail from the Receiver at Indemnity Insurance Corp., RRG (in Liquidation), The Nemours Building 1007 Orange St., Suite 1010, Wilmington, DE 19801, by email to iicdc.receiver@delrlb.com, or by calling 877-472-8360.

5. In addition, within ten (10) business days of receipt of this signed Order to Show Cause, for those claimants for which no confirmation of receipt of the Notice of Determination was returned by the claimant or the claimant’s attorney, the Receiver shall in addition to sending the mailing set forth in paragraph 4, above, provide the notice set forth in paragraph 4 above to such additional addresses the Receiver has identified for the claimant and the claimant’s attorney, and also serve the Order to Show cause by email if the Proof of Claim form or the Receiver’s records show an email for the claimant or the claimant’s attorney.

6. Additionally, within ten (10) business days of receipt of this signed Order to Show Cause, the Receiver shall also serve copies of this Order to Show

Cause, the Petition, Exhibits “A” and “B” to the Petition, and the proposed form of Order to grant the Petition by U.S. first class certified mail, postage prepaid, return receipt requested, on all Delaware counsel of record, if any, who did not already receive the Order by electronic service from the Court.

7. If no objection is timely filed to the Petition, the Court will enter an Order granting the relief sought by the Receiver.

SO ORDERED this 20th day of May, 2020.

/s/ Morgan T. Zurn
Vice Chancellor Morgan T. Zurn



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
) C.A. No. 8601-VCZ
INDEMNITY INSURANCE CORPORATION,)
RRG, IN LIQUIDATION)

**RECEIVER’S VERIFIED PETITION FOR APPROVAL OF
TWO PLANS CONCERNING THE PROOF OF CLAIMS PROCESS
AND THE SERVICE OF RELATED FILINGS BY THE RECEIVER**

Petitioner, the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as the Receiver (“Receiver”) of Indemnity Insurance Corporation, in Liquidation (“IICRRG”), petitions this Honorable Court for approval of two Plans: (1) the Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court (“Claim Final Determination Plan”); and (2) the Plan Regarding the Service of the Receiver’s Public Court Filings Concerning the Proof of Claims Process (“Service Plan”). A true and correct copy of the Claim Final Determination Plan and Service Plan are attached hereto as Exhibits “A” and “B”, respectively.

For the reasons stated more particularly hereafter, the Claim Final Determination Plan provides a streamlined process for the Receiver to determine the amount, allowance and priority of a claimant’s claim, and make claims recommendations to the Court in a summary manner. The Claim Final Determination Plan recognizes the insurance insolvency expertise of the Receiver,

the supervisory role of the Court, and minimizes the administrative expenses to the IICRRG Estate. It seeks to balance, and is consistent with, the procedural due process rights of the affected claimant(s) and the statutory framework of the Delaware Uniform Insurer's Liquidation Act codified at 18 *Del. C.* § 5901, *et. seq.*

Similarly, the Service Plan creates a streamlined, efficient and cost effective process for the Receiver to notice petitions and other documents concerning the Proof of Claim process. It balances, and is consistent with, the efficient administration of the IICRRG Estate, the procedural due process rights of the affected claimant(s), and the statutory framework of the Delaware Uniform Insurer's Liquidation Act.

The Receiver avers that the Claim Final Determination Plan and the Service Plan are fair, just, in the interests of IICRRG and its policyholders and creditors, and in accordance with applicable law.

The Receiver requests that an Order to Show Cause ("OSC") be entered setting a date for objections to be filed, if any, to either or both of the plans, and that the OSC be served in accordance with the methods and procedures contained in the Service Plan as they address the service of public filings made by the Receiver concerning the Proof of Claim process.

LIQUIDATION BACKGROUND

1. On November 7, 2013, this Court entered a Rehabilitation and

Injunction Order (“Rehabilitation Order”) with respect to IICRRG pursuant to the Delaware Uniform Insurers Liquidation Act (“DUILA”), 18 *Del. C.* § 5901, *et. seq.*¹

2. At that time, IICRRG was a Delaware domiciled insurance company licensed by the Delaware Department of Insurance (“DDOI”) as a risk retention group.

3. IICRRG wrote commercial liability insurance coverage for members of the risk retention group. The members were primarily businesses engaged in the hospitality and entertainment industries with most of them composed of bars, nightclubs, and restaurants that operated throughout the continental United States.

4. IICRRG’s management consented to the Rehabilitation Order because they had concluded that, *inter alia*, an infusion of substantial additional capital would be necessary or a “white knight” would have to purchase IICRRG or its assets if IICRRG was to have any likelihood of avoiding liquidation.

5. In placing IICRRG into rehabilitation, the Court found that IICRRG was impaired, in unsound condition, and in such condition as to render its further transaction of insurance presently and prospectively hazardous to its

¹ Prior to that time, the Delaware Chancery Court had placed IICRRG into seizure under 18 *Del. C.* 5943 on May 30, 2013 and Commissioner Stewart had filed a Verified Petition for the Entry of a Liquidation and Injunction Order with the Delaware Chancery Court on July 26, 2013 that was pending when the Rehabilitation Order was entered.

policyholders. The Court appointed the Honorable Karen Weldin Stewart, CIR-ML, Insurance Commissioner of the State of Delaware, as the Receiver. The Rehabilitation Order further vested the Receiver with “all right, title and interest in, of or to, all of the property of [IICRRG].”

6. As no additional capital or viable purchaser was found to restore IICRRG to solvency, Commissioner Stewart filed a Verified Petition for the Entry of a Liquidation and Injunction Order and Bar Date (“Liquidation Petition II”) on January 16, 2014.

7. On April 10, 2014, the Delaware Chancery Court placed IICRRG into liquidation by a Liquidation and Injunction Order with Bar Date (“Liquidation Order”) pursuant to the DUILA.

8. The causes of, and the bases for, the liquidation of IICRRG are well documented in: (a) the Petition for Entry of a Confidential Seizure and Injunction Order filed in the Delaware Chancery Court on May 30, 2013; (b) the Petition for Entry of a Liquidation and Injunction Order with Bar Date filed in the Delaware Chancery Court on July 26, 2013; (c) the Petition for the Entry of a Rehabilitation and Injunction Order filed in the Delaware Chancery Court on November 5, 2013; and (d) the Petition for Entry of a Liquidation and Injunction Order with Bar Date filed in the Delaware Chancery Court on January 16, 2014; (e) the decision of the Delaware Supreme Court in the case of *Cohen v. State ex rel. Stewart*, 89 A.3d 65

(Del. 2014); and (f) the findings and determinations of the federal court in the criminal trial and sentencing of Jeffrey B. Cohen (“Cohen”) in the case of *United States v. Cohen*, Criminal No. WDQ-14-0310 (D.MD. 2014) *aff’d U.S. v Cohen*, No. 15-4780 (4th Cir. 2018). As such, they will not be repeated here.

9. The Liquidation Order appointed then Delaware Insurance Commissioner Karen Weldin Stewart, CIR-ML, the Receiver of IICRRG and vested in her as Receiver “all right, title and interest in, of or to, all of the property of [IICRRG] which included all of IICRRG’s contracts and rights of action.”²

10. The Liquidation Order, *inter alia*, cancelled all IICRRG policies then in force no later than thirty days from the effective date of the Liquidation Order and set a bar date of January 15, 2015 for the filing of proofs of claim against the IICRRG estate (“Estate”). Subsequent to the entry of the Liquidation Order, information for filing claims against the Estate, including a Proof of Claim form, was sent to potential claimants.

11. Upon the entry of the Liquidation Order, IICRRG ceased to operate as a going concern. Prior to liquidation, IICRRG, as a risk retention group, had underwritten and issued commercial liability insurance coverage to the risk

² When Insurance Commissioner Navarro was sworn in on January 3, 2017, he was automatically substituted for former Commissioner Stewart as the Receiver of IICRRG by virtue of Court of Chancery Rule 25(d) and 18 *Del. C.* § 5911. On February 3, 2017, upon Motion, the Chancery Court substituted Commissioner Navarro as Receiver in this matter.

retention group members who were primarily businesses engaged in the hospitality and entertainment industries. Most of them were composed of bars, nightclubs, and restaurants that operated throughout the continental United States.

12. Significantly, the policyholder protections provided by the applicable state guaranty associations did not apply in this liquidation as the policyholders/members of risk retention groups are not subject to guaranty fund protection.³

THE CLAIMS PROCESS UNDER THE DUILA

13. Under the DUILA:

[T]he chief insurance regulator in the domiciliary state oversees the liquidation process. Only the regulator can initiate liquidation proceedings in the domiciliary state. Once a court has placed the insurer in liquidation, the regulator takes charge of the insurer's operations and marshals its assets. The regulator also manages a statutory process for receiving, evaluating, and paying claims (the "Claims Process")...

In re Liquidation of Freestone Ins. Co., 143 A.3d 1234, 1235 (Del. Ch. 2016).

14. The Receiver has several core duties that he and his deputies perform when administering the Estate. In most instances, the goal is to collect and

³ Risk retention groups are included in the definitions of "Captive Insurance Company" found in Section 6902(12) of Ch. 69 of Title 18 of the Delaware Code. Pursuant to 18 *Del. C.* § 6913 "No captive insurance company shall be permitted to join or contribute financially to any plan, pool, association, or guaranty or insolvency fund in this State, nor shall any such captive insurance company, or any insured or affiliate thereof, receive any benefit from any such plan, pool, association or guaranty or insolvency fund for claims arising out of the operations of such captive insurance company."

conserve Estate assets, to maximize the later payment of legitimate policyholder claims, and to the extent possible, the claims of creditors below policyholders in priority under the DUILA.

15. In order to implement the “orderly, expeditious, and equitable resolution of all claims against the insolvent insurer,” Delaware, like other states, has established a Proof of Claims Process (“POC Process”).

16. The over-arching principle that guides the POC Process is the conservation of Estate assets.

17. This principle is served by a streamlined process for the Receiver to determine POCs and make claims recommendations to the Court in a summary manner that recognizes the insurance insolvency expertise of the Receiver, the supervisory role of the Court, and minimizes expense to the IICRRG Estate but balances, and is consistent with, the procedural due process rights of the affected claimant(s) and the statutory framework of the DUILA.

18. The purposes of the Claim Final Determination Plan are to define a process for the final determination of claims that is consistent with the conservation of Estate assets and to provide procedural clarity for all participants in the POC Process.

19. The POC Process is outlined generally by Sections 5911(a), 5915-19, 5922, and 5924-29 of the DUILA which allow for the determination of the priority

class and amount of claims against insurers in liquidation, such as IICRRG. The DUILA provides:

§ 5917 Form of claim; notice; hearing.

(a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim or the basis upon which such amount can be ascertained, the facts upon which the claim is based and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant or someone authorized to act on the claimant's behalf and having knowledge of the facts and shall be supported by such documents as may be material thereto.

(b) All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State on or before the last date for filing as specified in this chapter.

(c) Within 10 days of the receipt of any claim or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report the receiver's recommendation with respect to the action to be taken thereon.^[4] Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

20. The DUILA contemplates that the Receiver is at the center of the POC

⁴ The Liquidation Order provides “[t]he Receiver shall submit claim Recommendation Reports to the Court within a reasonable time after the Receiver’s investigation concerning all claims submitted by a particular claimant has been completed. (Liquidation Order at ¶ 22).

Process and that the Court does not resolve claims in the first instance.

21. Instead, the initial step in the process is for the Receiver to make a recommendation to the Court regarding a Claim.⁵ Only then does the Court entertain it and rule on it. *Freestone*, 143 A.3d at 1246 (citing 18 *Del. C.* § 5917(c) & (d)).

22. In determining Claims, “[t]he Receiver’s role is more aptly characterized as a neutral arbiter than as a zealous advocate.” *Kreidler v. Cascade Nat. Ins. Co.*, 321 P.3d 281, 290 (Wash. Ct. App. 2014).⁶

23. All policyholder and other creditor Claims submitted to IICRRG are evaluated by the Receiver through the POC Process to determine and assign the proper class priority and dollar value to the Claim for the Receiver’s Claim Recommendation to the Court.

24. Claims consist of primarily three types: (1) Claims of policyholders and injured persons against a policyholder (Class III); (2) Claims for return of unearned premium (Class III); and (3) Claims of general creditors (Class VI).

⁵ “Claim”, “Claimant” and “Claim Value” or “Claims Values” as used in this Petition refer to the definition of those terms in the Claim Final Determination Plan.

⁶ Washington also applies the Uniform Insurers Liquidation Act. *See* Wash. Rev. Code Ann. § 48.99.010 (West) *et seq.* As the Delaware Supreme Court has held, “cases from other jurisdictions provide persuasive guidance about how to interpret the Insurers Liquidation Act.” *Cohen*, 89 A.2d at 96 (citing 18 *Del. C.* § 5920) (“The [Insurers Liquidation Act] shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it.”)

25. There are also Claims which were filed after the bar date (159 of them) which would otherwise be assigned as a Class VI or higher but by statute are assigned Class VII unless the late filing is excused by the Court. 18 *Del. C.* § 5918(e)(7).

26. The largest class of creditors is Class III.

27. Because risk retention groups, such as IICRRG, are barred from participating in, or receiving benefits from, insurance guaranty associations,⁷ there are a significant number of POCs because any policyholder or other Claimant seeking amounts on account of the insurance policies written by IICRRG must participate in the Claims process in the liquidation proceeding.

THE RECEIVER'S POC PROCESS TO DATE

28. IICRRG has received over 2,900 POCs.⁸

⁷ 18 *Del. C.* § 6913.

⁸ When a Claimant files a Proof of Claim Form with the Estate, a Claimant may assert more than one claim per form depending on the circumstances. As part of the Proof of Claims Process, the Claim Specialists (see paragraphs 29 through 31 of this Petition) analyze and make a final determination as to classification and value for each Claim filed by a Claimant in the form of a separate NOD for each Claim which may be contained in a Proof of Claim Form. In addition, on any one occurrence, more than one Claimant may file the same Claim. For example, an injured party and the insured may both file a Claim. Accordingly, issues such as the number of Claims stated in a Proof of Claim Form and whether there are multiple or duplicate Claims asserted from the same occurrence, are issues that in most instances are not fully known to Claims Specialists until they review the individual Proof of Claim Form and begin to analyze the Claims. Thus, the number and dollar amount of Claims has changed as Claims have been evaluated

29. The Receiver has retained Claims professionals to evaluate the POCs (“Claims Specialists”). The Claims Specialists have extensive experience in managing and examining insurance claims, both for operating insurers as well as insurers in liquidation.

30. The Claims Specialists also include the former Senior Vice President and General Counsel of a group of insurance companies. Prior to his twelve (12) years as Senior Vice President and General Counsel, he had thirty-two (32) years’ experience in a private law firm, and was primarily involved in insurance litigation matters, including regulatory issues and claims advice.

31. The Claims Specialists review POCs, seek and review additional information from Claimants, and make an initial determination as to priority class and value of the Claim.⁹

32. This initial determination is reported to a Claimant through the use of a Notice of Determination (“NOD”) that a Claims Specialist sends to a Claimant to notify the Claimant of the Receiver’s determination of the priority class

and more information regarding them is provided to the Claims Specialists. For this reason, when this Petition references POCs, it refers to the number of Claims versus the number of POC Claim Forms filed with the Estate as the number of Claims is the more meaningful metric.

⁹ The determination as to value is not done for Class VI because it is unlikely that members of this class will receive a distribution. NODs relating to Claims below priority class III will be sent out in order to allow Claimants to contest the priority class assigned to their Claim, if they choose.

(“Priority Class”)¹⁰ and value of the Claimant’s Claim.

33. The Claimant can either accept or object to the Receiver’s determinations of priority and/or value and, if the Claimant objects, the Claimant must provide a basis for the objection(s). Thereafter, the Receiver may reconsider his determination, or affirm the prior determination, after which the Claimant again may accept the determination or object to such determination.

34. After this determination is accepted or objected to, a Claim is then ripe for a hearing before the Court and final determination pursuant to 18 *Del. C.* §5917(c) and Paragraph 22 of the Liquidation Order.

35. To date, the Receiver has evaluated nearly all of the Claims contained in the POCs.

36. Of those Claims evaluated, 2,415 have been classified by the Receiver as Class III with a recommended aggregate value of over \$127,500,000.

37. Approximately 369 of the evaluated Claims have been classified by the Receiver as Class VI. These Claims have a face value in excess of \$10,650,000.¹¹

¹⁰ “Priority Class” refers to Classes 1 through IX set forth in Section 5918 of the DUILA.

¹¹ Only face value is used for Class VI Claims. However, unlike the frequently grossly inflated Claims and demands made in POCs for non-economic loss, Class VI Claims are primarily for economic loss and typically contract based. Regardless, the Receiver has not valued them because Class VI Claims will not share in any distribution. Thus, Recommended Claim Values are not needed.

38. Approximately 150 of the evaluated Claims have been classified by the Receiver as Class VII, with a recommended value, should the Court excuse the late filing, in excess of \$10,200,000.

39. The Receiver has determined that it is in the best interest of the IICRRG Estate to provide a framework for the Final Determination of the Claims set forth in the POCs that have been filed with the Estate.

THE CLAIM FINAL DETERMINATION PLAN

40. The Claim Final Determination Plan which sets forth the process by which the priority and value of Claims of policyholders, creditors, and other Claimants are determined and confirmed is set forth in Exhibit A hereto.

41. The Claim Final Determination Plan confirms the use of Claims Specialists and the POC/NOD procedures which have been utilized by the Receiver to determine Priority Classes and Claims Values to be recommended to the Court.

42. The Claim Final Determination Plan provides that from time to time, at the discretion of the Receiver, the Receiver will file a report with the Court concerning Claims in which the POC/NOD process has become final (the “Report”).

Pursuant to 18 *Del. C.* § 5918(e): “Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class shall receive any payment.” Class III Claimants will not be paid in full.

43. It is anticipated that multiple Claims will be included in each Report.

44. The Claim Final Determination Plan provides that the Report shall specify, for each Claim identified in the Report, the Receiver's Claim Recommendation.

45. The Claim Final Determination Plan provides for a procedure to allow a hearing for any Claimant who desires to have the Court review the Receiver's Claim Recommendation of the Claimant's Claim, regardless of whether that Claimant has previously filed an objection to the NOD.

46. The Claim Final Determination Plan provides for the Court, after receiving the Report, to enter an Order to Show Cause ("OSC") fixing the date and time for a proceeding for the Court to address those Claim Recommendations in the Report for which there is no objection ("Uncontested Recommendation Hearing").

47. The Claim Final Determination Plan provides that the OSC will fix: (1) a date not less than forty-five (45) days after the date of the OSC for the Uncontested Recommendation Proceeding; and (2) a deadline for Claimants to file with the Court objections to the Receiver's Claim Recommendation.

48. The Claim Final Determination Plan provides that any Claimant who desires Court review of the objection to the Receiver's Claim Recommendation must file an objection with the Court setting forth the basis for each objection by

the deadline set forth in the OSC.

49. The Claim Final Determination Plan provides that all Claim Recommendations identified in the Report for which no objection is timely filed are considered to be uncontested and subject to the procedure for the Uncontested Recommendation Proceeding which does not require the Receiver or the Claimant(s) to appear, file substantive arguments, submit exhibits, or introduce testimony in support of their positions.

50. However, notwithstanding the immediately preceding paragraph, the Claim Final Determination Plan provides that following the Objection Deadline, and in no event less than seven (7) days prior to the date of the Uncontested Recommendation Proceeding, the Receiver shall provide to the Court, for *in camera review*, a copy of the Notice of Determination Claim Review Summary for each Claim Determination identified in the Report where no objection was filed.

51. The Claim Final Determination Plan provides that the Court will make a Final Determination of all uncontested Claim Determinations either at the Uncontested Recommendation Proceeding or at such other date and time and in such manner as the Court deems appropriate. After such Final Determination has been made, the Court shall enter an Order allowing, allowing in part, or disallowing any uncontested Claim Determination identified in the Report based

upon the papers filed as part of the Report or thereafter supplemented.

52. The Claim Final Determination Plan provides that if a Claimant files an objection to a Claim Determination identified in the Report, a subsequent hearing will be scheduled no earlier than thirty (30) days to the adjudicate the issues raised by that objection (“Contested Recommendation Hearing”).

53. The Claim Final Determination Plan provides for the following schedule for the Receiver, Claimant(s) and/or interested party(ies)¹² to provide information to the Court:

- (a) no later than twenty-one (21) days prior to the Contested Recommendation Hearing, the Receiver shall provide the Court, with a copy to the Claimant(s) and interested party(ies), if any, a complete copy of the POC file together with the Notice of Determination Claim Review Summary for that Claim. Those documents are considered to be admitted into evidence and part of the record of the Contested Recommendation Hearing;
- (b) no later than fourteen (14) days prior to the Contested Recommendation Hearing, the Claimant(s) and interested party(ies), if any, shall provide the Court, with a copy to the Receiver, complete copies of all documents other than those provided to the Court by the Receiver in accordance with subpart (a) above that the Claimant(s) or interested party(ies) seek to rely upon in support of the objection(s).

¹² The Claim Final Determination Plan provides that an “interested party” is any non-claimant person or business entity that has an interest specifically in the POC at issue, such as an injured third party, an insured, or a joint tortfeasor. It is not a person or business entity that has an interest common with those of other members of the Claimant’s Priority Class or other priority classes that may have their *pro rata* distribution affected by the Court’s determination as to the final Value of the Claim. Only the Receiver, the Claimant(s) and interested parties in the Claim(s) at issue are entitled to participate in the claim procedures with regard to a Claim.

54. The Claim Final Determination Plan provides for no discovery, other than that set forth above. *C.f. Kreidler*, 179 Wash App. at 867, 321 P.3d at 290 (“the statutory scheme for administering proofs of claim requires claimants to produce evidence to support their own claim; it does not, however, provide a process for obtaining discovery from the receiver”).

55. The Claim Final Determination Plan provides that the Claimant shall have the burden of proof as to that Claimant’s objection(s).

56. The Claim Final Determination Plan provides that all Claimant(s) or interested parties shall have the right to be heard at the Contested Recommendation Hearing which right shall, at the discretion of the Court, include but not be limited to, the right to examine or cross examine witnesses at the Hearing and introduce documentary evidence in support of the exception(s).

57. The Claim Final Determination Plan provides that the Receiver may, but shall not be required to, participate in the Contested Recommendation Hearing unless otherwise directed by the Court.

58. The Claim Final Determination Plan provides that after all Claims have received a final determination and all general assets of the Estate are known and liquidated, the Receiver shall, at a time within the discretion of the Receiver, file a petition with the Court for the final distribution of Estate assets and the closing of the IICRRG Estate.

59. For the reasons set forth above, the Receiver asserts that the terms of the Claim Final Determination Plan are fair to IICRRG and its policyholders and creditors, and are in the best interests of IICRRG's Estate, its policyholders, claimants, and the general public.

THE SERVICE PLAN

60. The Service Plan sets forth the procedures to provide Claimants with notice of the Receiver's public court filings concerning the POC Process and is attached as Exhibit B hereto.

61. After the Liquidation Order was granted, the Receiver sent to all policyholders and known creditors of IICRRG a package by first class mail that included a copy of the Liquidation Order, Frequently Asked Questions, and a form for filing a Proof of Claim ("Liquidation Package").

62. The expense to the Estate for this method of service was over \$62,000 or approximately \$5.20 per package. The mailing required the following: (a) the copying and collating of 27 sheets of paper and integrating them into a package at an approximate per package cost of \$2.67; (b) the purchase of envelopes at a per package cost of \$0.29; (c) the importing and merging of several databases, creating labels, inserting one packet per envelope, sorting and presorting for first class and delivery to USPS at an approximate per package cost of \$.50; and (d) first class mail postage at a per package presort rate of \$1.74.

63. As previously noted, over 2,900 POCs from policyholders and creditors of IICRRG have been filed with the Receiver.

64. In order to serve all Claimants with copies of the Receiver's public court filings associated with this Petition ("Service Package") in the same manner as the prior service of the Liquidation Package, the Receiver will have to send over 4,500¹³ packages containing the court filings at an estimated cost of at least \$5.20 per Service Package.

65. In addition, the Plan contemplates multiple submissions to the Court, Receiver-provided notice pursuant to 18 *Del. C.* §5917(c), and other communications with claimants. In most cases, the papers will be voluminous because it is anticipated that multiple Claims will be submitted at one time in the reports to the Court.

66. In order to save expense to the Estate and maximize the return to the policyholders, the Receiver proposes that future service of filings and notices with respect to the POC Process by the Receiver may be accomplished as follows:

- a. The Receiver shall maintain a website for the purpose of, *inter alia*, providing access to full copies of documents which are to be served pursuant to the procedure set forth in this

¹³ Where a POC identified an attorney for the claimant, NODs and other filings are sent both to the claimant and the claimant's attorney. Approximately 1,577 attorneys have been identified on claimants' POCs.

Petition;¹⁴

- b. The Receiver shall provide notice by postcard or other mailing to a policyholder, claimant or other interested person, where any filing or notice effects the rights of such policyholder, claimant or interested person;
- c. The notice shall include:
 - i. the title and date of the filing or notice;
 - ii. a statement that the filing is available for viewing, downloading, or printing from an included website; and
 - iii. an address, telephone number, and email address of an IICRRG Estate contact for those unable to view, download, or print the filing from the website.
- d. Upon request, the Receiver will provide a copy of the notice or filing by United States Postal Service.
- e. The Receiver, in his discretion, may continue to serve documents by mail.

67. The Receiver estimates that the expense associated with the method of service noted in the preceding paragraph will be approximately \$0.55 per Service Package.¹⁵

68. This Court has previously allowed other liquidation estates

¹⁴ Currently, significant court filings and related documents are posted on the site: https://insurance.delaware.gov/divisions/rehab_bureau/rehab_bureau_iicrrg/.

¹⁵ This estimate is based upon a postcard postage rate of \$0.35, outsourced copying costs of approximately \$0.20 per copy (4 postcards per copy, cut) with the remaining production performed in-house due to the simplicity of the postcard method. This estimate does not include those situations where a claimant requests to receive a copy of the Service Package by mail but it is expected that those requests will be infrequent.

(Freestone Insurance Company, in Liquidation and Consolidated Worker's Risk Retention Group, in Liquidation) to implement service procedures that use service by postcard with electronic access to copies of filed documents in lieu of mailed documents in order to reduce expenses to those estates.

Receiver's Request for Authorization of Service of NODs Where They Have Been Returned Undelivered

69. The addresses where NODs have been sent are the addresses provided by the claimants in the POC form.

70. At present, a mailing has been returned as undeliverable or the Receiver has not received a confirmation of receipt¹⁶ in approximately 390 cases involving Class III NODs.¹⁷

71. Although the failure of the claimants to update their addresses would allow the Court to deny them further opportunity to object to the NOD,¹⁸ the

¹⁶ Where an attorney was listed in the POC form, the Receiver provided the NOD to both the attorney and the claimant. Mailings confirmed as received by the attorney for a claimant listed in its POC form is treated as received, even if a return receipt was not received from the claimant directly. In certain cases, although no return receipt was received from a claimant, the claimant filled out and returned the portion of the NOD either agreeing to or disputing the NOD valuation and priority class determination. In those cases, the POC is treated as if it was received.

¹⁷ The Receiver is in the process of obtaining alternative addresses for claimants and their attorneys in a number of instances where there was no confirmation of receipt.

¹⁸ See, e.g. *Smother's v. Delaware Transit Corp.*, 2017 WL 1735351, at *2 (Del. Super. Ct. May 1, 2017)(courts repeatedly affirm the Unemployment Insurance Appeal Board's denial of untimely appeals where the claimant failed to update

Receiver proposes the following procedure for service of the NODs upon those claimants for whom no confirmation of receipt of the NOD was received:

- a. The Receiver may serve the NOD on such claimants by ordinary mail utilizing updated addresses which have been discovered by the Receiver;
- b. In addition, for such claimants, the Receiver shall serve the NOD by email to the claimant or its attorney, if an email address of the claimant or its attorney appears on the claimant's POC form;
- c. If a POC form listed an attorney for the claimant, and no confirmation of receipt of the NOD was received for both the claimant and the attorney, and no active email address appears for the attorney, the Receiver shall make reasonable attempts to determine the current address of the attorney by consulting publically available state bar resources, and shall provide the NOD to the attorneys address, if found therein;
- d. If an email sent pursuant to paragraph 69(a) above is returned as undeliverable, or if no email is provided, the Receiver may serve such claimants by posting a notice on the website discussed in paragraph 63(a) through (c) above, listed as "Notice to Claimants of IICRRG" and in the body of the posting listing the POC claim number of such claimants, and the amount and priority class of the Receiver's recommendation.

72. For the reasons set forth above, the Receiver asserts that the above procedures are fair to IICRRG and its policyholders and creditors, and are in the best interests of IICRRG's Estate, its policyholders, claimants, and the general

their address, even where the mailing was returned to the Department); *Dexta Fed. Credit Union v. Holly Oak Towing & Serv. Ctr., Inc.*, 2008 WL 867946, at *3 (Del. Com. Mar. 31, 2008) (holding failure to update address with registered agent did not constitute excusable neglect in opening judgment).

public.

CONCLUSION

WHEREFORE, the Receiver respectfully requests that this Honorable Court grant the Petition and approve the Claim Final Determination Plan and the Service Plan; authorize the Receiver to execute any and all forms, agreements, or other documents necessary to fulfill the Claim Final Determination Plan and the Service Plan; authorize the Receiver to delegate to his attorneys, deputies, or agents the authority necessary to fulfill the Claim Final Determination Plan and the Service Plan; authorize the Receiver to incur expenses necessary for the administration of the Claim Final Determination Plan and Service Plan; and order such other relief as this Court deems necessary and appropriate.

Dated: September 10, 2019 **CROSS & SIMON, LLC**

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*Attorneys for the Honorable Trinidad Navarro,
Insurance Commissioner of the State of Delaware,
in his capacity as Receiver for Indemnity Insurance
Company, RRG, in Liquidation*



Exhibit A

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
) C.A. No. 8601-VCZ
INDEMNITY INSURANCE CORPORATION,)
RRG, IN LIQUIDATION)

**PLAN FOR THE RECEIVER’S CLAIM RECOMMENDATION REPORT
AND FINAL DETERMINATION OF CLAIM BY THE COURT**

This plan shall apply to the Receiver’s Claim Recommendation Report and Final Determination of Claim by the Court (“Claim Final Determination Plan” or “Plan”).

A. Purpose

The over-arching principle that guides this Plan is creating an accurate, fair and efficient claims process for the distribution of IICRRG Estate General Assets.

B. Definitions

When used in connection with this Plan:

1. “Bar Date” refers to January 16, 2015 which is the deadline contained in the Liquidation Order to file claims with the Receiver. Regarding the Bar Date and the filing of the Receiver’s Claim Recommendations with the Court, paragraphs 16 and 22 of the Liquidation Order provide that:

16. ANY AND ALL CLAIMS NOT FILED WITH THE RECEIVER ON OR BEFORE THE CLOSE OF BUSINESS ON **January 16, 2015** (THE “BAR DATE”) SHALL BE BARRED FROM CLASSES III THROUGH VI AS THOSE CLASSES ARE

DEFINED IN 18 DEL. C. §§5918(e) (3) THROUGH (e) (6) AND SHALL NOT RECEIVE ANY DISTRIBUTIONS FROM THE GENERAL ASSETS OF THE ESTATE OF IICRRG UNLESS AND UNTIL ASSETS BECOME AVAILABLE FOR A DISTRIBUTION TO CLASS VII CLAIMANTS AS DEFINED IN 18 DEL.C. 5918(e) (7). THIS BAR DATE SHALL SUPERCEDE ANY APPLICABLE STATUTES OF LIMITATIONS OR OTHER STATUTORY OR CONTRACTUAL TIME LIMITS WHICH HAVE NOT YET EXPIRED WHETHER ARISING UNDER DELAWARE LAW, UNDER THE APPLICABLE LAWS OF ANY OTHER JURISDICTION, OR UNDER A CONTRACT WITH IICRRG BUT SHALL ONLY APPLY TO CLAIMS AGAINST IICRRG IN THE LIQUIDATION PROCEEDINGS AND DOES NOT APPLY TO, AND EXCLUDES, CLAIMS BROUGHT BY IICRRG. ALL CLAIMANTS SHALL ATTACH TO SUCH PROOF OF CLAIM DOCUMENTATION SUFFICIENT TO SUPPORT SUCH CLAIM. THE FILED CLAIMS SHALL NOT BE REQUIRED TO BE LIQUIDATED AND ABSOLUTE ON OR BEFORE THE BAR DATE SET FORTH HEREIN.

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22. The Receiver shall submit claim Recommendation Reports to the Court within a reasonable time after the Receiver's investigation concerning all claims submitted by a particular claimant has been completed.

2. “Below Distribution Level Claim(s)” refers to Claims in those Classes that will not receive a distributive share from the General Assets of the Estate. In this matter, it is expected Classes IV through IX of Section 5918(e) of the DUILA will be Below Distribution Level Claims based on the Receiver’s Claim Recommendations.

3. “Claim(s)” refers to claims asserted against the assets of the IICRRG Estate and set forth in a Proof of Claim filed with the Receiver.

4. “Claim(s) Determination(s)” refers to the Receiver’s determination as to Class and Value with respect to a Claim as stated in the Notice of Determination (NOD).

5. “Claims Specialist” refers to persons who have special expertise in claims adjustment and who evaluate, analyze, determine and Value Claims on behalf of the Receiver and IICRRG Estate for the purposes of the POC Process.

6. “Claimant” refers to the business entity or person on whose behalf a Claim was made against the IICRRG Estate.

7. “Class” when it refers to a Claim means those nine categories or classes established and referenced by Section 5918(e) of the DUILA.

8. “Delaware Uniform Insurers Liquidation Act” or “DUILA” refers to 18 *Del. C.* § 5901, *et. seq.* Chapter 59 of the Delaware Code governs insurer delinquency proceedings including rehabilitation, liquidation and confidential summary proceedings such as seizure proceedings. With respect to Claims Determinations, Section 5917 of the DUILA provides:

§ 5917 Form of claim; notice; hearing.

(a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim or the basis upon which such amount can be ascertained, the facts upon which the claim is based and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant or someone authorized to act on the claimant's behalf and having knowledge of the facts and shall be supported by such documents as may be material thereto.

(b) All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State on or before the last date for filing as specified in this chapter.

(c) Within 10 days of the receipt of any claim or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report the receiver's recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

9. "Department" refers to the Delaware Department of Insurance.

10. "Distribution Level Claims" refers to Claim(s) in those Classes that will receive a distributive share from the General Assets of the Estate. In this matter, it is expected that Classes I through III of Section 5918(e) of the DUILA will be Distribution Level Claims and that Class III claims will not be paid in full, based upon the Receiver's Claim Recommendations.

11. "Final Determination" refers to the Final Determination Class and Final Determination Value.

12. “Final Determination Class” refers to the Class assigned to the Claim by the Court under this Plan.

13. “Final Determination Value” refers to the Value of the Claim approved by the Court under this Plan.

14. “General Assets” of the IICRRG Estate is coterminous with the definition of general assets stated in 18 *Del. C.* §5901(9):

(9) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property, the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

15. “IICRRG Estate” refers to the Indemnity Insurance Corporation, RRG in Liquidation, including its assets, liabilities and affairs.

16. “Liquidation Order” refers to the Liquidation and Injunction Order with Bar Date entered by the Delaware Chancery Court on April 10, 2014.

17. “Notice of Determination” or “NOD” refers to a writing provided by the Receiver to the Claimant advising the Claimant of the Class assignment and Value of the Claim determined by the Receiver.

18. “Notice of Determination Claim Review Summary” refers to a form completed by a Claims Specialist that contains information regarding the POC, the

Policy at issue, an overview of the loss, the Class assigned to the Claim, the Value assigned to the Claim and a summary of the Claims Specialist's evaluation and support for the Claim Determination. This document is supplied to the Court to assist in approving or not approving the Receiver's Claim Recommendation and, in the absence of exceptional circumstances, is presented in lieu of live testimony from the Claims Specialist.

19. "Priority of Distribution" or "Distribution Priority" refers to the scheme of distribution priority (Classes 1 through IX) set forth in Section 5918 of the DUILA.

20. "Proof of Claim" or "POC" refers to the Proof of Claim Form and other documentation filed with the Receiver, including supplemental information, in which a Claimant sets forth the Claim or Claim(s) against the IICRRG Estate and the documentary support for such Claim(s).

21. "Proof of Claim File" refers to those documents, communications and other information, including in electronic form, considered, reviewed or relied upon by the Claims Specialist in assigning a Class and Value to a Claim. It does not include privileged or confidential communications or documents, communications, or other information, including in electronic form, that if produced would reflect the mental impressions, thought processes, and opinions of the Claims Specialist or communications with legal counsel.

22. “Proof of Claim Process” or “POC Process” refers generally to the process during the liquidation proceedings in which: POCs are filed with the Receiver; the Receiver reviews, analyzes, and determines the POCs and issues NODs; the Receiver files the Receiver’s Claim Recommendation(s) with the Court; and the Court renders a Final Determination regarding the Receiver’s Claim Recommendation(s).

23. “Proration Factor” with respect to the Value or Valuation of a Claim refers to the factor (percentage) applied to the Final Determination Value at the time of ultimate distribution of the General Assets of the IICRRG Estate such that the amount distributed to a Claimant represents the Claimant’s pro-rata share of General Assets in relation to the distributed share received by other Claimants who are members of the same Class.

24. “Receiver” refers to the Insurance Commissioner of the State of Delaware in his or her capacity as the Receiver of Indemnity Insurance Corporation, RRG, in Liquidation. It also refers to the Receiver’s designees such as the Receiver’s Deputy Receiver(s), legal counsel, and estate representatives.

25. “Receiver’s Claim Recommendation(s)” refers to the Claim Value and Class recommended by the Receiver to the Court for approval.

26. “Receiver’s Claim Recommendation(s) Report” refers to the report filed with the Court regarding the Receiver’s Claim Recommendation(s).

27. “Value” or “Valuation” with respect to a Claim refers to the gross amount in U.S. dollars that the Receiver attributes to the Claim.

C. Procedures for Final Determination of Claims

The following procedures shall apply to the Receiver’s Claim Recommendation Report (“Report”) and the Court’s Final Determination of the Receiver’s Claim Recommendations in accordance with the Liquidation Order and 18 *Del. C.* § 5917:

1. The Receiver shall have discretion to group or batch POCs for review and analysis based upon the claim type or amount, the coverage or coverages implicated by the claim, or upon any other reasonable basis that promotes an efficient administration of the POC Process. Further, the Receiver shall have the discretion to determine whether, to what degree, and at what point in the review process, Below Distribution Level Claims are evaluated.

2. The Receiver shall have the authority to delegate review of Claims to a Claims Specialist. In such event, after the Claims Specialist has completed the analysis of the Claim and has assigned a Class and Value to the POC¹, the Receiver shall cause the Claimant(s) to receive a Notice of Determination (“NOD”).

3. The NOD will include the Receiver’s Claim Determination.

¹ For Below Distribution Level Claims other than Class VII, the Receiver will only assign a Class, and not a Value, and that process will not begin until the Receiver has made a Claim Determination for all Distribution Level Claims.

4. The NOD will advise the Claimant of the process for accepting or objecting to the NOD.

5. If a Claimant objects to the Class or Value assigned to a Claim, the Claimant may submit such objection to the Court in the IICRRG Liquidation Proceedings for Final Determination in accordance with the procedures outlined in the NOD and this Plan.

6. Any such objection shall contain all of the grounds upon which the objection is based.

7. Failure to file a timely objection as provided for in paragraphs 5 and 6 of this Section C shall mean the Claimant has accepted the NOD, subject to a final order by the Court approving the Report as it concerns that NOD.

Receiver's Claim Recommendation Report

8. From time to time, and at the discretion of the Receiver, the Receiver will file a Report with the Court concerning those Claims where the Receiver's Claim Determination and NOD have become final.²

9. The Report shall specify, for each Claim identified in the Report, the Receiver's Claim Recommendation.

² An NOD is final for the purposes of this Plan when an NOD has been served upon the Claimant(s) with respect to a particular POC, the Receiver and Claimant(s) have either agreed to the NOD or the parties are unable to agree to the NOD.

The Order to Show Cause

10. Upon the filing of the Report with the Court, the Court shall enter an Order to Show Cause (“OSC”) fixing the date and time for a proceeding for the Court to address those Claim Recommendations in the Report for which there is no objection (“Uncontested Recommendation Proceeding”). The Uncontested Recommendation Proceeding will be scheduled for a date forty-five (45) days or longer after the date of the OSC and set a deadline for objection(s) to the Report (“Objection Deadline”) at least thirty (30) days after the date of the OSC.

11. The procedure established by the OSC shall be for the purpose of determining whether any Claimant objects to the Claim Recommendation and seeks to present evidence to the Court in support of the objection.

12. Any Claimant who objects to the Receiver’s Claim Recommendation must notify the Court, in writing, of all of the Claimant’s objections(s) to the Receiver’s Claim Recommendation and the basis for each objection. The objection(s) shall be filed on or before the Objection Deadline set forth in the OSC.

13. Any Claimant entitled to a Court review of the Receiver’s Claim Recommendation who fails to notify the Court of their objections and intent to seek a Court review of the Receiver’s Claim Recommendation on or before the objection deadline set forth in the OSC will have been deemed to have waived any right to a Court review of the Receiver’s Claim Recommendation

concerning their claim, will be deemed to have abandoned any objection to the Receiver's Claim Recommendation, and will have their Claim determined by the Court on that basis.

Procedure Where No Objection to Report

14. All Claim Recommendations identified in the Report for which no objection is filed are considered to be uncontested and subject to the procedure for the Uncontested Recommendation Proceeding which does not require the Receiver or the Claimant(s) to appear, file substantive arguments, submit exhibits, or introduce testimony in support of their positions.

15. However, notwithstanding paragraph 14 of this Section C, following the Objection Deadline, and in no event less than seven (7) days prior to the date of the Uncontested Recommendation Proceeding, the Receiver shall provide to the Court, for *in camera* review, a copy of the Notice of Determination Claim Review Summary for each Claim Determination identified in the Report where no objection was filed.

16. The Court will make a Final Determination of all uncontested Claim Determinations either at the Uncontested Recommendation Proceeding or at such other date and time and in such manner as the Court deems appropriate. After such Final Determination has been made, the Court shall enter an Order allowing, allowing in part, or disallowing any uncontested Claim Determination identified in

the Report based upon the papers filed as part of the Report or thereafter supplemented pursuant to paragraph 15 of this Section C.

Procedure Where Objection is Filed to the Report

17. If a Claimant files an objection to a Claim Determination identified in the Report, a subsequent hearing will be scheduled at least thirty (30) days after the objection deadline in the OSC to adjudicate the issues raised by that objection (“Contested Recommendation Hearing”).

18. For the purposes of the documentary evidentiary record for the Contested Recommendation Hearing, the Receiver, Claimant(s) and/or interested party(ies) shall provide the Court with the following documents in accordance with the following schedule:

- (a) no later than twenty-one (21) days prior to the Contested Recommendation Hearing, the Receiver shall provide the Court, with a copy to the Claimant(s) and interested party(ies), if any, a complete copy of the POC file together with the Notice of Determination Claim Review Summary for that Claim. The documents provided to the Court hereunder shall be considered admitted into evidence and part of the record of the Contested Recommendation Hearing;
- (b) no later than fourteen (14) days prior to the Contested Recommendation Hearing, the Claimant(s) and interested party (ies),

if any, shall provide the Court, with a copy to the Receiver, complete copies of all documents other than those provided to the Court by the Receiver in accordance with subpart (a) above that the Claimant(s) or interested party(ies) seek to rely upon in support of the objection(s).

There shall be no right to pre-hearing discovery other than as set forth in this paragraph.

19. The Claimant shall have the burden of proof as to the objection(s), and to the Class or Value of the Claim. All Claimant(s) or interested parties³ shall have the right to be heard at the Contested Recommendation Hearing which right shall, at the discretion of the Court, include but not be limited to, the right to examine or cross examine witnesses at the Hearing and introduce documentary evidence in support of the objection(s).

20. The Receiver may, but shall not be required to, participate in the Contested Recommendation Hearing unless otherwise directed by the Court.

21. Upon the conclusion of the Contested Recommendation Hearing, or at such later date as the Court deems appropriate, the Court shall determine the

³ For the purposes of this Plan for the Receiver's Claim Recommendation Report and Final Determination of Claim by the Court, an interested party is any non-Claimant person or business entity that has an interest specifically in the Proof of Claim at issue, such as an injured third party, an insured, or a joint tortfeasor. It is not a person or business entity that has an interest common with those of other members of the Claimant's priority class or other priority classes that may have their *pro rata* distribution affected by the Court's determination as to the final value of the claim.

objection(s) to the Claim Determination and make a Final Determination of the Claim.

22. After such Final Determination has been made, the Court shall enter an Order allowing, allowing in part, or disallowing the Claim Determination that was the subject of the objection(s).

Timing of Distributions Subject to Asset Availability

23. Until all of the Distribution Level Claims have received a Final Determination, the Receiver shall not be required to distribute the General Assets of the IICRRG Estate. IICRRG's General Assets will be allocated and distributed first to administrative expenses and then to the allowed claims in each Class within the Distribution Level. All Claimants in a particular Class will be subject to the Proration Factor and share on that basis with other Claimants in that Class from assets that are available for distribution to that Class. No Claims in subordinate Classes within the Distribution Level Class shall receive distributions unless and until all Claims in higher priority Classes have been paid in full pursuant to 18 *Del. C.* § 5918.

24. After there has been a Final Determination of all Claims within a Distribution Level Class, including those Claims that had previously been assigned to a Below Distribution Level Class, the Receiver, at a time within his or her discretion and when all General Assets of the Estate are known and liquidated,

shall file a Petition with the Court for the final distribution of Estate assets and the closing of the IICRRG Estate.



Exhibit B

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
) C.A. No. 8601-VCZ
INDEMNITY INSURANCE CORPORATION,)
RRG, IN LIQUIDATION)

**PLAN REGARDING THE SERVICE OF
THE RECEIVER’S PUBLIC COURT FILINGS
CONCERNING THE PROOF OF CLAIMS PROCESS**

This Plan shall apply to the service of filings and notices related to the Receiver’s Claim Recommendation Report and Final Determination of Claims by the Court.

A. Purpose

The purpose of the Plan is to provide a streamlined, cost-effective process for the Receiver to serve petitions and other documents concerning the Proof of Claim process.

B. Definitions

When used in connection with this Plan:

1. “Claim(s)” refers to claims asserted against the assets of the IICRRG Estate and set forth in a Proof of Claim filed with the Receiver.

2. “Claimant” refers to the business entity or person on whose behalf a Claim was made against the IICRRG Estate.

3. “IICRRG Estate” refers to the Indemnity Insurance Corporation, RRG in Liquidation, including its assets, liabilities and affairs.

4. “Liquidation Order” refers to the Liquidation and Injunction Order with Bar Date entered by the Delaware Chancery Court on April 10, 2014.

5. “Notice of Determination” or “NOD” refers to a writing provided by the Receiver to the Claimant advising the Claimant of the Class assignment and Value of the Claim determined by the Receiver.

6. “Proof of Claim” or “POC” refers to the Proof of Claim Form and other documentation filed with the Receiver, including supplemental information, in which a Claimant sets forth the Claim or Claim(s) against the IICRRG Estate and the documentary support for such Claim(s).

7. “Receiver” refers to the Insurance Commissioner of the State of Delaware in his or her capacity as the Receiver of Indemnity Insurance Corporation, RRG, in Liquidation. It also refers to the Receiver’s designees such as the Receiver’s Deputy Receiver(s), legal counsel, and estate representatives.

**C. Procedures for Service of Receiver’s Public Court Filings
Concerning the Proof of Claims Process**

The following procedures shall apply to the notice provided by the Receiver concerning the Claims process:

Website for Providing Access to Documents

1. The Receiver shall use and maintain its public website to provide access to full copies of documents which are served pursuant to this Plan (the “Website”).
2. Documents which are filed or served by the Receiver pursuant to this Plan shall be made available for viewing on the Website.
3. The Receiver may, at his election, also post other notices and filings relating to this matter to the Website.

Service of Documents Upon Multiple Claimants or Other Interested Persons

4. At the election of the Receiver, when a filing affects Claimants, policyholders, and/or other interested persons, the Receiver may, in his discretion, serve such filing by sending a postcard or other mailing via the United States Post Office to each such Claimant, policyholder, or other interested person.
5. Such postcard or other mailing shall contain the following information:
 - a. The title and date of the filing or notice;
 - b. The URL from which the filing is available for viewing, downloading, or printing;
 - c. a statement that the filing is available for viewing, downloading, or printing from an included website; and

- d. an address, telephone number, and email address as a contact to request a copy of the notice or filing by United States Postal Service
6. The postcard or other notice shall be in substantially the form:

Indemnity Insurance Corp., RRG (“IICRRG”) in Liquidation

IMPORTANT NOTICE OF COURT FILING

A FILING HAS BEEN MADE WHICH MAY AFFECT YOUR RIGHTS. On [Month] [day], [year] the Receiver of IICRRG filed [Name of Filing] (the “Filing”).

You may view or print a copy of the Filing by opening the URL at https://insurance.delaware.gov/divisions/rehab_bureau/rehab_bureau_iicrrg and choosing the link for the Filing.

You may request a copy of the Filing by mail from the Receiver at Indemnity Insurance Corp., RRG, in Liquidation, The Nemours Building 1007 Orange St., Suite 1010, Wilmington, DE 19801, by email to iicdc.receiver@delrlb.com, or by calling 877-472-8360.

7. The Receiver, in his discretion, may serve full copies of documents by United States mail or commercial courier service to one or more Claimant, policyholder, or interested person.

8. The service provided for in paragraphs 4 through 7 shall be deemed sufficient notice for all purposes relating to this Plan.

Service of Filings, Notices or Documents Affecting a Single Claimant or Interested Person

9. When a filing affects only a single Claimant, policyholder, or other interested person, the Receiver will serve such filing by United States mail or by commercial courier service, or by another form (*e.g.* email) where that other form

of service is agreed-upon in writing by the Receiver and the Claimant, policyholder, or other interested person.

10. The service provided for in paragraph 9 shall be deemed sufficient notice for all purposes relating to this Plan.

Service of NODs and Other Documents Where Confirmation of Service of and NOD Has Previously Been Returned as Undeliverable or Confirmation of Service Not Received

11. Where the Receiver has previously sent an NOD to a Claimant, and (1) has neither received a response to the NOD nor received confirmation of service of the NOD; or (2) the NOD has been returned as undeliverable; the Receiver may use the following method to serve the NOD and any future filings, notices or documents upon such a Claimant:

- a. The Receiver may serve the NOD on such Claimants by ordinary mail utilizing updated addresses which have been discovered by the Receiver;
- b. In addition, for such Claimants, the Receiver may serve such Claimants by email to the Claimant or the Claimant's attorney, if an email of the Claimant or the Claimant's attorney appears on the Claimant's proof of claim forms;
- c. If a POC form listed an attorney for the Claimant, and no confirmation of receipt of the NOD was received for both the Claimant and the attorney, and no active email address appears for the attorney, the Receiver will make reasonable attempts to determine the current address of the attorney by consulting publically available state bar resources, and will provide the NOD to the attorney's address, if found therein;
- d. If an email sent pursuant to paragraph 11(a) above is returned

as undeliverable, or if no email is provided, the Receiver may serve such Claimant by posting a notice on the website discussed in paragraphs 1-3 above, listed as “Notice to Claimants of IICRRG” and in the body of the post list the proof of claim number of such Claimant, and the amount and priority class of the Receiver’s recommendation.

12. Where such Claimant provides an updated address to the Receiver, the Receiver will follow paragraphs 4-8 of the Plan for serving such Claimant.



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
)
INDEMNITY INSURANCE CORPORATION,) C.A. No. 8601-CB
RRG, IN LIQUIDATION)

VERIFICATION OF MICHAEL JOHNSON

COMMONWEALTH OF PENNSYLVANIA :
: SS
CITY AND COUNTY OF PHILADELPHIA :

I, MICHAEL J. JOHNSON, being duly sworn, according to law, depose and state that I have read the foregoing Receiver’s Verified Petition for Approval of Two Plans Concerning the Proof of Claims Process and the Service of Related Filings by the Receiver in the above-captioned matter, do hereby verify that the factual statements set forth therein are true and correct to the best of my knowledge, information, and belief.

Michael J. Johnson, Deputy Receiver
Indemnity Insurance Corporation RRG,
In Liquidation

SWORN TO AND SUBSCRIBED before me this 4th day of September, 2019.

Notary Public
My Commission Expires: July 8, 2020



COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
COLLEEN C. JONES-MALDONADO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 8, 2020

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
INDEMNITY INSURANCE) C.A. No. 8601-MTZ
CORPORATION, RRG,)
IN LIQUIDATION)

**[PROPOSED] ORDER GRANTING RECEIVER’S PETITION
FOR APPROVAL OF TWO PLANS CONCERNING THE
PROOF OF CLAIMS PROCESS AND THE
SERVICE OF RELATED FILINGS BY THE RECEIVER**

Whereas, on September 10, 2019, the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as Receiver for Indemnity Insurance Company, RRG (“IICRRG”), in Liquidation (the “Receiver”) filed the Petition for Approval of Two Plans Concerning the Proof of Claims Process and the Service of Related Filings by the Receiver (the “Petition”), and the Court having considered the Petition and any objections thereto;

IT IS SO ORDERED this ____ day of _____, 2020, that:

1. The Receiver’s Petition for Approval of Two Plans Concerning the Proof of Claims Process and the Service of Related Filings by the Receiver is GRANTED;

2. The Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court (“Claim Final Determination Plan”), a true and copy of which is attached to the Petition as Exhibit “A,” is APPROVED.

3. The Receiver is hereby authorized to take all actions necessary to administer the Claim Final Determination Plan, including but not limited to, executing any and all forms, agreements, or other documents necessary to effectuate the Claim Final Determination Plan, delegating to his attorneys, deputies or agents the authority specified herein, and incurring expenses necessary for the administration of the Claim Final Determination Plan.

4. The Receiver is hereby authorized to resolve all Proofs of Claim relating to IICRRG in accordance with the Claim Final Determination Plan.

5. The Claim Final Determination Plan is the sole and exclusive method for the resolution of Proofs of Claims relating to IICRRG unless otherwise ordered by the Court.

6. The Plan Regarding the Service of the Receiver's Public Court Filings Concerning the Proof of Claims Process (the "Service Plan"), a true and copy of which is attached to the Petition as Exhibit "B," is APPROVED.

7. The Receiver is hereby authorized to take all actions necessary to administer the Service Plan, including but not limited to serving applicable documents pursuant to the Service Plan, executing any and all forms, agreements, or other documents necessary to fulfill the Service Plan, delegating to his attorneys, deputies or agents the authority specified herein, and incurring expenses necessary for the administration of the Service Plan.

8. This Order shall be effective immediately.

Vice Chancellor Morgan T. Zurn