NOLHGA MPC Meeting

Pre-Liquidation Planning Tabletop Session

July 23, 2025
Washington, DC

NOLHGA℠

Agenda

1. Introduction and Overview (20 minutes)

2. Breakout Discussions (45 minutes)

3. Reports on Breakout Discussions (45 minutes)

4. Observations and Key Takeaways (10 minutes)

Breakout Discussion & Reporting Directions

- You have been assigned a table (see the attached table assignments). Please ensure you are at the correct table before the session begins.
- Each table should assign a scribe and a reporter (one person can perform both duties). The reporter will present the table's findings to the audience.
- Each table should spend time on all the questions generally and report on key takeaways. However, each table has been assigned a focus topic, and the majority of your report should address that topic.
- When discussing the scenario, questions, and focus topic, please consider the viewpoints of an affected GA, a Task Force member, a Task Force Chair, and the domiciliary GA in formulating your takeaways.

Key Objectives and Topics for Discussion: The purpose of this tabletop is to simulate a hypothetical situation in which a company that has been in rehabilitation is now facing liquidation. The objective is to identify common challenges when working through the pre-liquidation process and to discuss strategies and best practices for addressing these challenges. Areas of focus include:

1. **Overall Pre-Liquidation Planning:** When should pre-liquidation planning start, what information is needed, what options should be considered (e.g., captive, reinsurance, sale, runoff), and how should those options be assessed?
2. **Policy Administration/TPA Relationship:** Consider the importance of understanding policy administration, obtaining access to data, and planning for administration after liquidation—including selection of a TPA, timing, and expectations.
3. **Coordination with Regulators:** What are best practices in coordinating with regulators, including when to contact the Department of Insurance (DOI) in your state, who to contact, and what key points should be discussed?
4. **Communication to Key Stakeholders:** What are best practices for communicating information to key non-regulatory stakeholders (e.g., affected GAs, Boards of Directors, member insurers, policyholders, etc.), including what coordination methods should be used (GA-only talking points, FAQ docs, website updates, policyholder notices, etc.)?
5. **Extended Rehabilitation:** What are the risks and benefits of an extended rehabilitation?

SCENARIO

On March 14, 2024, the Insurance Commissioner in New Dakota, the lead state for the Assurance Group of companies ("Assurance Group" or "Group") notified the New Dakota Guaranty Association Administrator that the New Dakota insurer, Assurance New Dakota Insurance Company ("Assurance New Dakota"), was placed in Supervision upon review of the 2023 annual statement. Assurance New Dakota has since been placed in rehabilitation, and liquidation appears likely. The New Dakota Insurance Commissioner is the Rehabilitator. Other companies, domiciled in different jurisdictions, are part of the Assurance Group and were also placed into rehabilitation at the same time as Assurance New Dakota. All the state regulators are coordinating. New Dakota's laws, as well as the laws of the other states, are substantially similar to the NAIC Model Act and Regulations.

Assurance Company Overview

Group Structure

Assurance New Dakota operates under a Holding Company structure that is majority owned by a privately held investor group, with majority ownership and ultimate control by an individual. Formerly a family-owned life insurer that was incorporated in 1954 (with $250 million in policyholder liabilities), Assurance New Dakota was acquired by the investor group in 2019. Other insurers within the Assurance Group were also acquired over the past five years, and a captive insurer was formed in 2022 as part of the Group's reinsurance strategy.

The Assurance Group currently includes three retail life and annuity insurers in addition to the captive. Assurance New Dakota and the captive, Assurance Re, are domiciled in New Dakota. The other two retail insurers, Assurance Old York Insurance Company ("Assurance Old York") and Assurance East Virginia Insurance Company ("Assurance East Virginia"), are domiciled in Old York and East Virginia. Assurance Old York is a single-state entity, while Assurance New Dakota and Assurance East Virigina are licensed in 42 and 26 states, respectively. The retail insurers are collectively licensed in all 50 states and D.C. The companies domiciled in East Virgina and Old York were put into rehabilitation at the same time as the New Dakota companies.

Investment Strategy

The Assurance Group's investment strategy is focused on alternative assets and private credit, and an affiliated investment management company manages all assets. The investment strategy includes an above-average amount of illiquid and high-risk investments, including structured securities, commercial mortgage loans, and Schedule BA Assets. A significant portion of the structured securities and Schedule BA Assets are affiliated investments. Assurance Group has an AM Best rating of B+ with a negative outlook due to significant growth, its aggressive investment strategy, and its declining financial position.

The three retail insurers rely completely on the parent and affiliated captive for capital support. The insurers have issued several surplus notes to the parent over the past five years to support growth. Funds at the Holding Company level to purchase affiliated surplus notes were raised through issuance of debt. The captive provides surplus relief to the insurers through reinsurance.

Management & Operations

At the time of acquisition in 2019, management brought strong insurance experience; however, several key individuals have recently resigned, leaving the Assurance Group with "limited" insurance experience. The Board consists of management and several investment managers with an investment focus and minimal insurance experience. The insurers do not have employees. An affiliated management company and affiliated TPA provide most services, with some reliance on unaffiliated TPAs.

Product Liabilities

The Assurance Group has seen significant growth in its annuity business since the initial 2019 Assurance New Dakota acquisition—policyholder liabilities have grown from $250 million to $1.5 billion. The Group has a small block of traditional term life business ($300 million), which operates out of Assurance East Virginia. The largest part of the Group's business is deferred fixed annuities (approximately $1.2 billion), which operates out of Assurance New Dakota. Assurance Old York only services policyholders in Old York and has less than $10 million in liabilities. Annuity crediting rates are among the highest in the industry. The first annuity withdrawal window (i.e., the applicable surrender charges had expired), accounting for about $250 million of the annuity block, hit in 2024 and caused an increase in surrenders beyond management's expectations. The surrender charges on the balance of the annuity block will expire over the next three years.

Current Status

A confidentiality agreement with the state of New Dakota and the NOLHGA Task Force has not yet been signed, and reserve information by state is not available.

The most recent report from the Rehabilitator in New Dakota indicates assets will run out by December 2026 and that a zero-asset estate is expected. Specifically, the report notes:

- There is minimal capitalization, and the insurers rely on the parent for capital support.
- RBC has been below regulatory action level since 2023. The RBC trend over the past 5 years is as follows:
  - 2019: 748%
  - 2020: 452%
  - 2021: 312%
  - 2022: 357%
  - 2023: 98%
  - 2024: 56%
- Reserves appear inadequate, and the most recent asset adequacy testing indicates an additional $155 million in asset adequacy reserves are required.
- Reinsurance is provided primarily by an affiliate captive that retrocedes business to a third-party offshore reinsurer (Cayman Islands) on a funds withheld basis (i.e., assets are held by the captive insurer).
- The investment portfolio is composed, in substantial part, of complex high-risk structured securities that are illiquid and do not have readily available third-party valuations.

- There are concerns the securities may be above statutory investment limits and may not be properly valued.
- Many of the insurers in the Assurance Group also participate in the same securities, creating systemic risk across the Group should any of the assets become impaired.
- The Group lacks appropriate internal controls and governance.

Additionally, the Rehabilitator has indicated the affiliated TPA records are not well organized. TPA staffing levels have recently declined because of the rehabilitation, and the long-term viability of the TPA is in question.

The Rehabilitator has issued a moratorium on all surrenders. If liquidation occurs (without a continuation of the moratorium), a significant influx of surrenders is expected. Thus far, during the rehabilitation and moratorium, the regulator has tried to find a healthy company to acquire the business but has been unsuccessful. Liquidation is assumed to be imminent at this point.

Discussion Questions

Setting The Stage

1. What are the initial overarching issues and concerns with this scenario?
2. When the New Dakota Administrator was notified of administrative supervision, what steps could he/she have taken?

I. Overall Pre-Liquidation Planning

1. At what point should pre-liquidation planning start? How should costs be controlled?
2. What information is critical for pre-liquidation planning?
3. What are the potential options for pre-liquidation planning (captive, reinsurance, sale, runoff, etc.)?
4. What are the challenges of a zero-asset estate? How can the GAs plan for this scenario (e.g., assessments, borrowing, etc.)?
5. What are the challenges of the insurers not having any employees and relying on affiliates and outside parties to provide services?

II. Policy Administration/TPA Relationship

1. What information is needed to make a decision on future administration?
2. What challenges will be encountered throughout rehabilitation and liquidation?
3. What are the administrative challenges associated with this type of business?
4. The annuity surrender process is much more complex than typical surrenders because many surrenders are expected. What challenges will be encountered upon liquidation, and how can GAs best plan for this both in terms of communication and TPA education and training? Further, how will staffing levels be determined?

III. Coordination with Regulators

1. What are some best practices for individual GAs to coordinate with the DOI in their state?
2. Do these practices differ for the GAs in New Dakota, Old York, and East Virgina and for GAs in other affected states?
3. What are some best practices for ensuring overall coordination with DOIs, GAs, NOLHGA, and other stakeholders on behalf of the system as a whole? How can the GAs encourage timely communications?

IV. Communication to Key Stakeholders

1. How should information be provided to the Task Force and affected GAs (e.g., talking points, FAQ docs, website updates, etc.)?
2. How should policyholders be informed?
3. What are best practices for the partnership between the Task Force, the Receiver, and NOLHGA?
4. What are some best practices for coordinating with your Board of Directors?

V. Extended Rehabilitation

1. If an extended rehabilitation occurs, what are the challenges created by the rehabilitation timeline? What are the potential benefits?
2. How long should a rehabilitation last and why?
3. How do extended rehabilitations impact GA interactions and relationships with regulators and policyholders?

Reference Materials

1. Insolvency Task Force Resource Guide (Final 3-26-14)
2. MPC Insolvency Task Force Guidelines
   a. Roles and Functions of Consultants
   b. Litigation Protocol
   c. Asset Protocols
   d. Form of Policyholder Notice
   e. TPA Review Template
3. Rules and Procedures of the Members' Participation Council
4. Life and Health Insurance Guaranty Association Model Act (520)
5. Communication and Coordination Among Regulators, Receivers, and Guaranty Associations: An Approach to a National State Based System (This White Paper, adopted by the NAIC in 2004, contains evergreen concepts to keep in mind.)
6. GA Model Plan of Operation