Glossary

Affected Guaranty Funds: Not every fund is impacted by each liquidation. Funds without **covered claims** exposure in a liquidation do not participate in claims handling or the **Coordinating Committee** and are typically not parties to any of the common agreements between the receiver and affected funds. Those with **covered claims** exposure are often referred to as the Affected Guaranty Funds.

Caps: The **covered claim** definition in a state's guaranty fund act may place an upper limit on coverage for claims of a particular line of business. For example, a given state may cap all claims at $500,000 with an exception for workers compensation claims, which are uncapped. Any portion of the claim (e.g., a judgement) remaining after the fund pays its cap becomes a policyholder claim in the liquidation **estate.**

Catastrophe (CAT) Claims: A claim that arises out of a major/large-scale event, such as a natural disaster.

Clawback: Following an **Early Access** distribution by the receiver of a company in liquidation, the receiver may demand some portion of the distributed amount be returned to the liquidation. The repayment timing and other terms are detailed in the **Early Access Agreement.** The most common reason for a clawback is a desire by the receiver to achieve an even pro rata distribution level or to pay claims or expenses which the receiver determines to be of superior priority. While early access distributions are subject to clawback, **Interim or Final Distributions** are not.

Coordinating Committee: Upon liquidation of a troubled company, and in most cases weeks or months in advance of liquidation, a subset of volunteer managers from among the **affected guaranty funds** are identified to liaison with the receiver and lead the funds on key issues. Notably, individual guaranty funds do not abdicate any official authority to the committee to enter agreements, adjudicate claims, or make other official decisions on their behalf.

Covered Claim(s): Each guaranty fund operates subject to its respective state law which, among other things, defines the conditions for that specific guaranty fund's coverage of insurance claims. You can find a list of guaranty fund state statutes: here. The covered claim definition varies from state-to-state. Examples of variations are **caps** on coverage, **net worth, other insurance, line of business exclusions, residency** and **licensing requirements.**

Early Access: When a company is liquidated, guaranty funds usually begin paying claims and incurring relatedexpensesimmediately. Early Access, which is court-approved, is a preliminary distribution to the funds to support claim payments that is subject to **clawback** by the receiver. An **Early Access Agreement** governs the terms between the receiver and the affected funds.

Early Access Agreement: When a receiver plans to release **Early Access** to the **affected guaranty funds,** they are typically required to have a detailed plan approved by the supervising court. The **affected guaranty funds** and receiver are parties to the agreement, which deals with issues like reporting requirements, **clawback** payment terms, and often the conversion of Early Access funds to **Interim or Final Distributions.**

Estate: This term is used often by guaranty funds and receivers to refer to the company in liquidation. The receiver uses the estate's assets to meet its remaining liabilities. The funds are typically the major creditor in the estate.

Federal Education Project: The Federal Education Project was established as a joint venture between NCIGF and NOLHGA to provide background and information at the federal level about the state-based insurance guaranty fund system. This is a priority to NCIGF and NOLHGA members and the insurance industry because of the potential for federal intervention in insurance regulation (most recently evidenced by advent of the Federal Insurance Office (FIO) and adoption of Dodd-Frank Act Title II powers that would permit the FDIC to initiate receivership of an insurance carrier). Association members and industry agree that regardless of the origin of the regulation, the U.S. guaranty fund system is effective and should be retained.

First Notice of Loss (FNOL): Often the first step in the insurance lifecycle of the claims process. It is when an insurance provider or **estate** is first notified that an insured has incurred a loss, theft, injury, or other covered event. The timing of the FNOL is usually important in coverage determinations.

Interim or Final Distribution: After a fund has incurred expenses related its responsibilities under a given liquidation, it reports these expenses as part of its claim (see **Proof of Claim)** in the liquidation. After a years-long process of review and eventual court approval, the receiver reimburses the fund from the assets of the liquidation **estate** in accordance with priority distribution statutes, generally after issuing a **Notice of Determination.** Interim Distribution or Final distributions are not subject to **clawback.**

International Federation of Insurance Guaranty Schemes (IFIGS): IFIGS is a non-profit network for insurance guaranty schemes for both life and non-life insurance. IFIGS was formed in May 2013 by a group of insurance guaranty schemes from around the world interested in sharing their experiences in providing policyholder protection in the event of an insurance company failure. IFIGS facilitates and promotes international cooperation between insurance guaranty schemes and other stakeholder organizations with an interest in policyholder protection.

International Association of Insurance Receivers (IAIR): IAIR's mission is to serve as a resource and promote best practices for the resolution of troubled companies and enhance expertise among the community. IAIR provides persons involved with insurance receiverships and financially stressed or troubled insurers a forum to exchange information, develop best practices, establish and maintain accreditation standards, and educate members and others concerning the administration and restructuring of such insurers.

Licensing Requirements: The **covered claim** definition in a state's guaranty fund act may restrict coverage to companies satisfying certain licensing requirements. For example, a given fund may require the policy in question to have been issued by a **member company** during a year in which that company was licensed in the fund's state.

Line of Business Exclusions: The **covered claim** definition in a state's guaranty fund act may restrict coverage to certain lines of property and casualty insurance. For example, certain funds do not cover Surety. As a result, any Surety claims from that state arising out of the policies of a liquidated company become policyholder claims in the **estate.** You can find information on Excluded Lines of Business here (link).

Member Company: Guaranty fund statutes define which property and casualty insurers are members of the individual guaranty fund. Members are subject to assessments and their policyholders may qualify for guaranty fund coverage in the given state. For example, a given carrier could be a member of a state's guaranty fund because it is licensed to write at least one covered line of business in that state.

Net Worth: The **covered claim** definition in some state guaranty fund acts may exclude coverage to policyholders and/or claimants whose net worth exceeds certain amounts as calculated in a state statute. For example, a policyholder whose net worth exceeds $25 million on 12/31of the year preceding the order of liquidation would not have a **covered claim** pursuant to some state statutes, which may result in outright denial or in efforts by the fund to recover any payments made prior to the determination. The non-covered portion of a claim generally becomes a policyholder claim in the **estate.**

Notice of Determination (NOD): Before a receiver is authorized to make a **interim or final distribution,** they typically must administer a formal process of collecting information about guaranty fund (and other creditor) payments, reviewing the claims for accuracy, and seeking court approval to make a distribution from estate assets. The review often culminates with the issuance of a statement or NOD to each fund explaining the distribution amount including any denial or reduction.

Order of Liquidation: A state court can issue an Order of Liquidation when the Commissioner does not believe the problems can be corrected and that continued operation of the company would be harmful to the company's policyholders and creditors. Under the Order of Liquidation, the Commissioner is appointed as Liquidator or Receiver (these terms are often used interchangeable and can depend on what state the Liquidation occurs in). The Liquidator will then appoint a Special Deputy Receiver or Special Deputy Liquidator to manage the Liquidation process. After the court issues the Order of Liquidation, the Receiver and their staff take possession of the company's offices, records, equipment and assets. A notice is sent to all policyholders and claimants informing them of the company's liquidation and the steps they must take in order to file a claim against the company's estate.

Order of Rehabilitation: A state court can issue an Order of Rehabilitation in situations where the Commissioner believes it appropriate for the protection of the policyholders and creditors. In these situations, the Commissioner is appointed as the Rehabilitator or Receiver of the company and is given the authority to manage the company until the problems are corrected. In their capacity as Rehabilitator, the Commissioner takes ownership and control of the company's books, records, and assets, and assumes all powers of the company's directors, officers, and managers. The Commissioner has broad discretion to take whatever corrective actions they believe appropriate, subject to oversight by the court.

Order of Suspension: A state court can issue an Order of Supervision, meaning the Commissionercan require the company to take specific corrective steps, orto obtain the Commissioner's approval before it undertakes certain transactions. Usually, an Order of Supervision alone does not result in changes to policies issued by the company or the payment of claims. Using an Order of Suspension, the Commissioner can order the company to stop all or a portion of its business in the state.

Pharmacy and Indemnity Pre-payment: A central concern of NCIGF and the guaranty funds is avoiding interruption in benefits to policyholders during the period of transition from company or receiver claims handling to guaranty fund handling. Pharmacy Benefit agreements provide for guaranty fund financing of continuing prescription access until claimants are transitioned to a permanent, fund-administered program. Indemnity Pre-pay agreements provide an up-front payment to claimants to cover the period of transition before guaranty funds take over recurring payments.

Pre-Liquidation Planning: Used by fund managers and NCIGF staff to describe a period of regulatory control and preparation ("runway") preceding an order of liquidation. Having some lead time, ideally at least one month and often much longer, has become one of the most important issues to NCIGF and its members. This time is needed to prepare claim and policy data, understand complicated programs and contractual arrangements, and implement plans to avoid coverage gaps (e.g., **Pharmacy and Indemnity Pre-payment** agreements) among other initiatives. An MOU or other arrangement may be required to satisfy confidentiality concerns.

Proof of Claim (POC): In general, each creditor in a liquidation estate is required to formally establish a claim by filing a proof of claim in the **estate.** The specific form of the POC, including the filing deadline, varies from state to state.

Reinsurance: A transaction between a primary insurer and another licensed (re)insurer where the reinsurer agrees to cover all or part of the losses and/or loss adjustment expenses of the primary insurer. The assumption is in exchange for a premium. Reinsurance is often the largest asset in a liquidation estate, and its administration is an important driver of reporting priorities.

Residency: The **covered claim** definition in a state's guaranty fund act may restrict coverage to policyholders and/or claimants who satisfy certain residency requirements. For example, a workers compensation claim may not have coverage if the injured worker lived in a different state at the time of the loss. In most cases, this claim would revert to a different guaranty fund.

Returned Premium: The amount of money given back to the insured when a policy is canceled, the rate is adjusted, or if the insured overpaid for their premiums. This is similar to **Unearned Premium,** defined below, but often used in an industry context.

Runoff: An insurance company is considered to be in run-off when it ceases selling new insurance policies for a specific line of business. Sometimes runoff and rehabilitation are used interchangeably by guaranty funds to denote the time period prior to an **Order of Liquidation** being entered when **pre-liquidation planning** is occurring.

Secure Uniform Data Standards (SUDS): See **Uniform Data Standard.** SUDS is the system of servers, transfer mechanisms, user accounts and access privileges that support the use of **UDS** for sending claim data between funds and receivers.

Subrogation: Situation where an insurer, on behalf of the insured, has a legal right to bring a liability suit against a third party who caused losses to the insured. Insurer maintains the right to seek reimbursement for losses incurred by insurer at the fault of a third party.

Triggered (Fund): A state guaranty fund might be triggered when a one-time **member company** is found insolvent and ordered into liquidation, but there may be no active policies or claims in that state requiring action by the fund. The fund would be triggered without having any exposure and therefore would not typically be considered an **affected fund** for coordination purposes.

Third Party Administrator (TPA): An entity that provides various administrative and operational services on behalf of an insurance plan for a fee. For example, some **estates** utilize a TPA to help with **FNOLs.**

Unearned Premium: An unearned premium is the premium amount that corresponds to the time period remaining on an insurance policy. In the guaranty fund context, when an existing policy is cancelled by an order of liquidation, there is often a portion of premium due to the policyholder for the cancelled portion of the policy term. This becomes a claim that is generally covered by the appropriate guaranty fund. This is similar to **Returned Premium,** defined above, but often used in a guaranty fund context.

Uniform Data Standard (UDS): The NAIC approved UDS format is an agreed-upon electronic for the sharing of claims data between receivers and guaranty funds. It specifies what data is required, how and where it appears within a file to be transferred. A, B, F, G and I records typically deliver information on new claims from receivers to funds. C and D records typically go from the funds to the receiver to update information about claim developments and guaranty fund expenditures.

A Record: A basic demographic file that serves as a key for all other files. (Receiver to Fund)

B Record: A file containing information required to process **Unearned Premium** claims. (Receiver to Fund)

C Record: Loss and expense payments, recoveries, reserve changes and other information. (Fund to Receiver)

D Record: Additional information about administrative costs. (Fund to Receiver)

E Record: Closed Claim files (Receiver to Fund)

F Record: Existing file notes. (Receiver to Fund)

G Record: Historical payments. (Receiver to Fund)

I Record: Imaged claim file (Receiver to Fund/Fund to Receiver)

M Record: Medicare Secondary Payer reporting (Receiver to Fund)