



## **Wisconsin Insurance Security Fund**

### **Wisconsin Reinsurance Corporation (WRC) Pending Liquidation**

**Updated 12/18/2023**

**Disclaimer: The Q&A outlined below is premised on the Dane County Circuit Court approving the pending liquidation petition and entering a liquidation order based on a finding of insolvency for WRC. The information provided below is based on information the Wisconsin Insurance Security Fund (WISF) has received to date and is subject to change by the WISF, as updated information becomes available. In addition, each claim submitted by a covered town mutual company will be considered based upon the facts of that claim. This Q&A is general information only that may change based on claims as submitted.**

#### **Will the WISF provide coverage for reinsurance contracts?**

Generally, a claimant under a reinsurance contract is not covered by the WISF under Wis. Stat. Chapter 646 because Chapter 646 applies only to direct insurance (see Wis. Stat. §646.01(1)(a)1). However, under Wis. Stat. §646.03(1m), reinsurance ceded by an assessable Wisconsin town mutual insurer (an insurer organized under Wis. Stat. Chapter 612) is defined as direct insurance and is covered by the WISF, subject to the coverage limitations and conditions in Chapter 646. The policyholder claiming coverage in this circumstance is a town mutual insurance company that has a claim for coverage under its reinsurance contract with WRC.

Reinsurance ceded by any insurer that is not organized under Chapter 612 is not direct insurance, and is excluded from WISF coverage (see Wis. Stat. §646.01)

#### **If the assessable town mutual has merged in or converted to a Chapter 611 insurer, will they lose WISF coverage?**

- No. WISF will determine coverage based on the status of the ceding insurer during the policy period in which a covered claim occurred. If during the policy period in which a covered claim occurred the ceding insurer was organized under Chapter 612, that period will be covered. However, if through a merger a town mutual (measured by the policy year) is eligible to collect under other reinsurance for business that is also

covered under the WRC reinsurance agreement, the collateral source collection requirements contained in Wis. Stat. §646.31 (6) would apply. The collateral source provision requires claimants to the WIFS to exhaust all other collateral sources of recovery before claiming from the WISF. In the case described above, other available reinsurance would be a collateral source.

### **When will the WISF coverage begin?**

The WISF coverage is triggered when a **final order of liquidation** has been entered by a court of competent jurisdiction and is effective against an insurance company (see Wis. Stat. §646.31 (1)). Coverage for the town mutual insurers under their reinsurance contracts with WRC will begin on the effective date of the liquidation order against WRC, provided that order is final.

### **How does the WISF coverage work?**

If a claim is covered by the WISF, the claim is subject to (i) the limits, exclusions and conditions contained in the insurance policy (or in this case the reinsurance contract) out of which the claim arises and (ii) the claim eligibility provisions contained in Wis. Stat. Chapter 646, including without limitation, Wis. Stat. §646.31.

### **Do you need to file a claim with the WISF?**

No. It is not necessary to file a separate claim with WISF. A claimant or policyholder must file a timely claim with liquidation estate to qualify for WISF coverage (see Wis. Stat. §646.13 (3)). Claims filed with WRC prior to liquidation or filed with the receiver after liquidation will be transferred to WISF for handling. The WISF has been working with the WRC Special Deputy Receiver (WRC SDR) to facilitate the timely transfer of claim information, which should ensure covered claim payments are not unnecessarily delayed.

Town Mutual ceding insurers must first file claims that occur after WRC's liquidation with the liquidation estate. These claims cannot be filed directly with the WISF. Filing first with the liquidation estate will document the ceding town mutual's proof of claim. The liquidation estate will subsequently provide the claim along with all necessary documentation to the WISF for administration of the claim by the WISF in accordance with Chapter 646

### **How will claims against WRC be handled by the WISF?**

The WISF is currently working with the WRC SDR on the claims process. As noted in a previous question, a claim for coverage must be filed with the company/liquidation estate first. The claim will then be considered based on the

coverage provided for by the reinsurance contract, subject to the provisions of Chapter 646. The WISF currently anticipates a two-step process: (i) apply the policy terms; and (ii) subsequently apply the WISF coverage.

The WISF will treat each assessable Wisconsin town mutual insurer that qualifies for WISF coverage as a “covered policyholder”.

### **Are there limits on the amount (dollar value) of WISF coverage?**

Yes. Under Wis. Stat. §646.31 (4) (ap) and (b), the maximum claim for a single risk or loss under property or liability policies may not exceed \$500,000 subject to the limits contained in the liquidated insurer’s policy or contract. Based on an analysis of the reinsurance contracts, the WISF will treat the property portion as one risk and the liability portion as another risk, each with a separate limit. Each reinsurance policy period would qualify for its own set of limits.

### **Are there other limitations on WISF coverage?**

Yes. Two examples that could apply in this liquidation are:

- The policyholder net worth provisions contained in Wis. Stat. §646.31 (12) and §646.325. The net worth provision limits WISF’s liability to an insured whose net worth exceeds \$25,000,000. Although the WISF will use publicly available records to substantiate the net worth of many ceding town mutuals, town mutuals that have been involved in substantial transactions that may increase their net worth close to the statutory threshold will be asked to submit net worth statements for verification purposes. At this time and based on information made available to the WISF, the WISF believes that most ceding town mutuals will fall below the \$25,000,000 net worth threshold.
- Collateral source collection requirements contained in Wis. Stat. §646.31 (6). The collateral source provision requires claimants to the WISF to exhaust all other collateral sources of recovery before claiming from the WISF. Since mergers can alter reinsurance coverage obligations, the surviving company of any town mutual merger that occurred during a reinsurance policy period can expect inquiries regarding other reinsurance coverage.

### **How will WASI service be handled?**

Liquidation will change this relationship. The WRC SDR will communicate the changes based on Wis. Stat. Chapter 645 (the chapter that governs insurer liquidations) requirements. Since WISF coverage is for ceded reinsurance and the WRC reinsurance contract does not include coverage for claims handling, that would not be a cost covered under Chapter 646. These are expenses of the direct writer generally not covered by reinsurance.

**Will WISF enforce provisions of the WRC reinsurance contract that relate to WASI claim handling?**

Yes. WISF coverage looks to the terms and conditions of the reinsurance contract and Chapter 646 to determine its obligations and the obligations of the ceding town mutual.

**How will WISF handle long-tail claims that remain open for statute of limitation purposes?**

Claims that are qualified in the liquidation estate and transferred to the WISF by the receiver will continue to be handled the way they are today with any reopened claims to be monitored until the statute of limitations has expired.

**In other liquidations, the WISF obtains an injunction that allows it to move claims out of court actions and into WISF's administrative process – will that happen here?**

Yes. Similar to other liquidations, the WISF will obtain an injunction to prevent interference with its application of Chapter 646. The receiver will obtain a similar injunction to prevent interference with application of Chapter 645.

However, WRC did not issue direct insurance, and an injunction obtained by the WISF to prevent interference with its application of Chapter 646 to WRC in liquidation will not apply to claims by policyholders and third-party claimants filed against the ceding town mutuals under policies issued directly by them. The town mutuals, as direct writers, are neither covered by Chapter 646 nor are they the companies against which an order of liquidation has been obtained.

**Will policyholders of assessable town mutuals have coverage from WISF?**

No. Direct insurance written by assessable mutual insurers is excluded from WISF coverage under Wis. Stat. §646.01(1)(a)1).

**Assessment Abatements – how are these handled?**

The WISF will assess certain property and casualty insurers covered by Chapter 646 to fund the losses for this insolvency when the WISF is triggered (on the effective date of WRC's final liquidation order). The WISF Board has authorized a \$7 million assessment to be called in January 2024, contingent on a final liquidation order being issued by the court. By statute, this assessment will be based on the assessable premium written in 2022. Only companies covered by Chapter 646 will be assessed. Town Mutuals are not covered by Chapter 646

and will not be assessed. Assessments against Chapter 611 insurers will be based only on assessable premium written in 2022.

The WISF has a process by which an insurer subject to assessment may request a deferral, waiver, or abatement. If, in consultation with the OCI, the WISF determines an assessment cannot be paid without jeopardizing the insurer's financial condition, the WISF Board can take formal action to defer an assessment for a period of time. The deferral can be extended, if necessary, based on the circumstances. However, the WISF generally only waives or abates an assessment when the insurer is placed in liquidation, and it is clear the available estate assets will not reach the preference category to which the deferred assessment is assigned.

**Additional general coverage questions may be directed to WISF Executive Director Allan Patek (608-268-4068) or [allan@wisf-madison.org](mailto:allan@wisf-madison.org). Until the liquidation order is effective, claim specific questions should be directed to the company.**