

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF THE LIQUIDATION :  
OF SCOTTISH RE (U.S.), INC. : C.A. 2019-0175-JTL  
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**NOTICE TO SRUS CREDITORS REGARDING LIQUIDATION  
PROCESS, CLAIMS PROCEDURES, AND SETTING OF BAR DATES**

**I. Introduction**

On July 18, 2023, the Court of Chancery of the State of Delaware (“Chancery Court”) entered a Liquidation and Injunction Order (“Liquidation Order”) placing Scottish Re (US), Inc. into liquidation (“SRUS”). SRUS is a reinsurer and has no policyholders. There is no coverage available to claimants from state guaranty associations/funds.

The Liquidation Order contained several provisions that address the liquidation process. Among other things, the Order set an outside termination date of September 30, 2023 (the “Effective Date”) for all reinsurance agreements (“Reinsurance Agreements”) in which SRUS reinsured an insurer (“Cedent”). It also requires all cedents who were parties to such agreements to continue paying in full all premiums due to SRUS through the Effective Date pursuant to the terms of their Reinsurance Agreements. Other agreements, such as those in which SRUS cedes its reinsured business (“Retrocession Agreements”) to another reinsurer can be terminated at the discretion of the Receiver.

The Offset Plan that was in effect during the Rehabilitation and Injunction Order dated March 6, 2019 has been superseded by the Liquidation Order. The Liquidation Order continues to permit offset pursuant to 18 *Del. C.* § 5927. Because the Offset Plan only permitted offset pursuant to § 5927, this technical change should have no material impact on offset.

The Motion for Entry of a Liquidation and Injunction Order advised all claimants that several policies and procedures clarifying the Proof of Claim (“POC”) process would be submitted for Chancery Court approval. These policies and procedures will detail the process relating to: (a) filing a claim, including the information claimants must provide; (b) the setting of deadlines for specific types of claims; (c) the Receiver’s Notice of Determination of the class and value of the claim (“NOD”); (d) the mechanism by which claims disputes will be resolved and/or other various contingencies will be addressed, including the manner in which claims for

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unearned YRT premiums are to be submitted; and (e) the process for the final determination of claims by the Chancery Court.

The following provides creditors with general information about the liquidation process and updates as to when the Receiver expects to present certain POC procedures to the Court for approval, and when bar dates will be set for the submission of claims.

**II. Overview of the Proof of Claims Process**

The payment of claims against SRUS will follow a statutory priority scheme:

|            |   |
|------------|---|
| Class I    | Administrative Expenses   |
| Class II   | Guaranty Association Administration Expenses ( <b>Not applicable in this Liquidation</b> )  |
| Class III  | Injured Party Claims, and Policyholder Claims, including Claims for the Return of Unearned Premium ( <b>Not applicable in this litigation</b> ) |
| Class IV   | Taxes or Debts to the United States   |
| Class V    | Certain Claims for Compensation for Non-Officer Employees of SRUS   |
| Class VI   | General Creditor Claims, Including Claims of Reinsurers   |
| Class VII  | Claims Within Classes I-VI but filed after the Bar Date   |
| Class VIII | Surplus Notes or Similar Obligations  |
| Class IX   | Shareholders or Owners Claims   |

18 *Del. C.* § 5918.

Every claim in each of the above classes must be paid in full or adequate funds retained for such payment before the members of the next class can receive any payment. Equitable remedies may not be used to circumvent the priority of classes. The largest class of creditors in this liquidation is Class VI.

In addition, all members of a class will receive the same *pro rata* proportion of the value of their finally determined claims and will be paid at the same time.

The POC process begins by the submission of a POC form to the Receiver, along with documentation that complies with the POC procedures. After the Receiver has sufficient information to value the claim, the Receiver will issue a corresponding NOD for each claim reviewed. The Receiver's NOD will include the Receiver's recommended value for the claim and its priority class under the above statute. A claimant will have an opportunity to provide additional information or otherwise correspond with the Receiver before the Receiver submits a claimant's

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NOD in the form of a recommendation to the Chancery Court for final determination.

The Receiver's recommendation to the Chancery Court is not final. The Chancery Court will base its final determination based on the Receiver's recommendation, as well as information which may be provided by a claimant, should the claimant object to the Receiver's recommendation. Ultimately, it is within the discretion of the Chancery Court to make the final determination of the class and value of each claim.

By statute (18 *Del. C.* § 5928(c)), no judgment taken after the date of the Liquidation Order can be considered as evidence of either liability or the amount of damages. Before liquidation, no judgment *by default* can be considered as *conclusive evidence* of liability or damages.

Claim payment distributions from SRUS will occur only after all claims have been finally determined by the Chancery Court and all SRUS's assets have been recovered so that the amount of the *pro rata* distribution for the first class that will not receive payment in full can be made. At that time, which is very near the end of the process, the Receiver will make application to the Chancery Court, on notice to claimants, for approval of the distribution of payments.

Based upon the insolvency of SRUS, the Receiver believes that the only classes that will receive a distribution are classes I-VI. Classes VII-IX are not expected to receive a distribution.

As referenced above and below, the Receiver will be filing motions to approve a series of policies and procedures to give effect to the POC process for approval by the Chancery Court,<sup>1</sup> as well as motions to set deadlines for the filing of specific claims ("Bar Date" or "Bar Dates"). The policies and procedures for filing a POC will include a Proof of Claim form that must be timely completed and filed by all claimants. If you have a claim against SRUS and wish to pursue that claim, you must comply with the applicable claims procedures by the applicable Bar Date(s) for your claim(s) to be considered in one of the priority classes. Otherwise, no proceedings against SRUS can be brought except in the liquidation proceedings of SRUS in the Chancery Court. The stay imposed by the Liquidation Order is a permanent stay.

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<sup>1</sup> It is the Receiver's position that the majority of the policies and procedures related to the proof of claim process are within the discretion of the Receiver and do not require Chancery Court approval. As will be distinguished in the Motions to Approve, only certain policies or procedures will be submitted for specific approval by the Chancery Court. However, the complete policies and procedures will be provided to the Chancery Court for context.

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**III. Procedures and Bar Dates**

**A. Cedent Claims Under Reinsurance Agreements Prior to  
Liquidation Order Effective Date**

Within the next thirty (30) days, the Receiver will be filing a motion to approve certain procedures for the submission, valuation, and determination by the Receiver of cedent claims arising on or before the Effective Date under reinsurance agreements. They will address the process for these cedent claims and will address the mechanism for filing a POC (including a spreadsheet-template for Cedent Claimants to complete), the necessary information Cedent-Claimants must provide as part of this POC process, the deadlines for filing a POC with the estate, and the Receiver's determination of the class and value of the claim. This motion will be accompanied by another Motion to set the Bar Date for these claims. The Receiver will ask the Court to set this Bar Date six (6) months after the date of the Court's Order approving the procedures.

**B. All Other Claims**

Approximately sixty (60) days after the Motion to Approve these procedures is filed, the Receiver will file a subsequent motion to approve certain procedures for the submission, valuation, and determination by the Receiver of all other claims against SRUS, including claims of cedents for future damages (post-September 30, 2023) and claims of all other creditors of SRUS. They will address the mechanism for filing the POC (including a Proof of Claim Form), the information that the claimants must provide as part of this POC process and the Receiver's determination of the class and value of the Claim.

With respect to certain of these cedent claims that may seek future losses (those after 9/30/23) based on projected losses under Reinsurance Agreements cancelled by the Liquidation Order, the methodology the Receiver will use to value these claims will consider contractual options and will assume that SRUS and its counterparty would act in the future in a manner consistent with their best financial interests. Accordingly, the Notice of YRT Rate increase in the Motion for Entry of a Liquidation and Injunction Order makes unequivocal the Receiver's intention to raise YRT rates to the maximum extent due to the absence of an approvable Plan of Rehabilitation. Similarly, the methodology assumes that in response to the YRT rate increase the affected cedent would exercise its right to terminate the Reinsurance Agreement. The YRT rate increase notice is for the purpose of calculating limited past due and potential future projected losses. For those YRT cedents having a YRT rate increase notice period of 60 days or less, unless otherwise notified by the cedent, the Receiver will consider those cedents as having elected to terminate the impacted treaties immediately prior to the effective

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date of the rate increase and any losses subsequent to that date and September 30, 2023 will not be valued by the Receiver or recoverable from the SRUS estate as part of the Proof of Claims process. Similarly, unless notified otherwise by a cedent, for those YRT cedents who have YRT premium rate increase effective dates longer than 60 days, the calculation of claims for potential future losses will be at the YRT premium rate existing on September 30, 2023 for the time period between September 30, 2023 and the effective date(s) of the YRT premium rate increase per the applicable treaty and it will be assumed that the cedent exercised its contractual rate to terminate the applicable treaty immediately prior to that date and no projections of future losses submitted to the Receiver for projections after that date will be valued by the Receiver or recoverable from the SRUS estate as part of the Proof of Claims process. Explicit contractual rate guarantees in cedent treaties will be honored in accordance with their terms.

This Motion will be accompanied by a motion to set a second Bar Date for these claims. The Receiver will ask the Court to set this Bar Date eighteen (18) months after the date of the Court's Order approving the procedures.

**C. Adjudication/Resolution of Disputed Claims**

During this same sixty (60) day period, the Receiver will also file a Motion to Approve Certain Dispute Adjudication/resolution Procedures that will address the manner, forum and process for adjudicating or otherwise resolving claim disputes.

The purpose of these above policies and procedures is to create an accurate and efficient process for the submission of claims to the Receiver, the Receiver's evaluation of those claims, an ability to request, receive or supplement cedent claims information to reconcile any financial discrepancies regarding the claims, and for the Receiver to ultimately assign a recommended value and class for the submitted claims.

**D. Final Determination of Claims by the Chancery Court**

After the approval of all of the above policies and procedures, the Receiver will file a Motion to Approve Certain Procedures for the Final Determination of Claims by the Chancery Court.

**IV. Additional Policies and Procedures**

The Receiver, in his discretion may, from time to time, submit for Chancery Court approval such other policies, procedures, plans, or orders related to the administration or operation of the SRUS estate as the Receiver deems necessary or advisable.