

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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**FINAL DETERMINATION PROCEDURES**

**SECTION I**  
**PREAMBLE**

1.1. The procedures for hearings for the Court to make a final determination of proofs of claim are set forth in Section 5917(c) and (d) of the Delaware Uniform Insurers Liquidation Act codified at 18 *Del. C. ch.* 59. (“DUILA”). The procedures are triggered by the report to the Court of the Receiver’s recommendation as to the priority class and value of a proof of claim (“Receiver’s Recommendation”). The DUILA requires a hearing for all claims, not just claims to which there has been an objection to the Receiver’s Recommendation. The DUILA does not require a full evidentiary hearing.

1.2. In making a final determination of the Receiver’s Recommendation, the Court applies an abuse of discretion standard to that recommendation.

1.3. After the conclusion of the hearing, the Court shall enter an order allowing, allowing in part, or disallowing the claim. 18 *Del. C. §* 5917(d). Such an order is an appealable order. *Id.*

1.4. These procedures apply to the Delaware Chancery Court’s final determinations of proofs of claim following the submission of the Receiver’s Recommendation to the Court (“Final Determination Procedures” or “Procedures”).

They are referenced in the Receiver's Cedent Reinsurance Claims Procedures, General Claims Procedures, and Dispute Resolution Procedures (collectively the "Claims Procedures") filed with the Court on March 25 and April 17, 2024, respectively. The Claims Procedures recognize the insurance insolvency expertise of the Receiver and the supervisory role of the Court. They also minimize the administrative expenses to the SRUS Estate thereby increasing the amount of assets available for distribution to creditors. These procedures balance the procedural due process rights of the affected claimant(s), the preservation of Estate Assets, and the conservation of judicial resources within the statutory framework of the DUILA.

## **SECTION II DEFINITIONS**

2.1 Any term used in these Final Determination Procedures that is not defined in this Section but is defined elsewhere in the Claims Procedures shall have the meaning set forth therein. Any term used in these Procedures that is not defined in this Section or the Claims Procedures but is defined in the DUILA shall have the meaning set forth therein. All terms other than those defined in this Section or the DUILA shall have their common meaning in the English language. Otherwise, with respect to these Procedures, these terms shall have the following meanings:

- (a) "Cedent" refers to the contractual transfer or cession by an insurer of some or all of its risk to its policyholders to another insurance company known as the "Reinsurer" for which the Reinsurer is paid a premium by the Cedent (which may or may not relate specifically to the premium paid by the underlying policyholder). Cedent refers to an individual Cedent entity and not a group of affiliated or non-affiliated Cedents.
- (b) "Cedent Reinsurance Claims" refers to a claim or claims by a Cedent against SRUS made under the Cedent Reinsurance Claims Procedures.

- (c) “Chancery Court” or “Court” refers to the Delaware Court of Chancery.
- (d) “Claims Procedures” refers to the definition of “Claims Procedures” as that term is defined in Section I – Preamble.
- (e) “Declaration of Agreed POC” refers to a declaration from the Receiver or his representative that sets forth the salient facts regarding the agreed POC that contains the agreement of the Receiver and a claimant.
- (f) “General Claims Procedures” refers to the procedures regarding the filing of Cedent Termination Claims, and all other claims not addressed in the Cedent Reinsurance Claims procedures.
- (g) “Notice of Determination of Agreed Class and Value or “NODACV”, refers to the definition of Notice of Determination of Agreed Class and Value or NODACV as set forth in Section 3.6.7 of the Cedent Reinsurance Claims Procedures and Section 3.2.3.2 of the General Claims Procedures.
- (h) “POC”, “Proof of Claim”, or “Proofs of Claim” refers to a proof of claim or proofs of claims filed with the Receiver under the Cedent Reinsurance Claims Procedures or General Claims Procedures.
- (i) “Priority Class” refers to the Priority Class of a Cedent Claim under 18 Del. C. § 5918. All timely filed Cedent Reinsurance Claims, unless notified otherwise, are Priority Class 6 pursuant to 18 Del. C. § 5918(e)(6).
- (j) “Receiver” refers to the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware in his capacity as the Receiver of SRUS, or his duly appointed deputy receiver(s) and Designees as that term is defined in the Liquidation Order.
- (k) “Reinsurance Claims Procedures” refers to the procedures regarding the filing of Cedent Reinsurance Claims, Non-Agreed POC Claims, and Disputed Pre-POC Claims.
- (l) “Total Undisputed Claims Amount” refers to the definition of Total Undisputed Claims Amount set forth in Section 3.2.3 of the Cedent Reinsurance Claims Procedures.
- (m) “Total Undisputed Cedent Termination Claims Amount” refers to the definition of Total Undisputed Cedent Claims Amount set forth in Section 3.2.1.4 of the General Claims Procedures.

## **SECTION III**

### **PROCESS FOR FINAL DETERMINATION OF POCS**

#### **3.1 General Information**

3.1.1 These Final Determination Procedures, together with the Claims Procedures and Dispute Procedures, implement the claims, reporting, and hearing provisions of the DUILA, including 18 *Del. C.* §§ 5913, 5915, 5917-18.

3.1.2 Upon Approval, these Final Determination Procedures will govern the final determination of the Priority Class and value of all Proofs of Claims filed with the Receiver in the liquidation proceedings of SRUS.

3.1.3 The Claims and Dispute Procedures address claims in which the Receiver and claimant agree as to Priority Class and value, and disputed claims that fall within one of two Disputed Determination Tracks: Reconciliation Disputes or Standard Disputes as those terms are defined or referenced in the Claims or Dispute Procedures.

#### **3.2 Receiver's Recommendation and Supporting Documentation**

3.2.1 Pursuant to Sections 3.5.6, 3.6.7, 3.6.10, and 3.7.6 of the Reinsurance Claims Procedures, Sections 3.2.1.6, 3.2.3.2, and 3.2.3.4 of the General Claims Procedures, and Sections 5.1, 5.2, and 5.3 of the Dispute Procedures, the Receiver will, from time to time, submit the Receiver's Recommendation as to the Priority Class and valuation of the Proof of Claims referenced in the recommendation to the Court for final determination.

3.2.2 The filing of the Receiver's Recommendation will initiate the final determination process for the Proofs of Claim referenced in the recommendation.

### **3.3 Final Determination of Agreed POCs**

3.3.1 In circumstances where a Cedent has accepted the Total Undisputed Claims Amount, the Total Undisputed Cedent Termination Claims Amount, or there is a Notice of Determination of Agreed Class and Value with respect to a Cedent's Proof of Claim, the Receiver will submit the agreed upon amount and priority classification as the Receiver's Recommendation for final determination by the Court.

3.3.2 The Receiver will also submit, along with the Receiver's Recommendation for any agreed Proof of Claim, a Declaration of Agreed POC and, where applicable under Sections 3.6.7 and 3.6.10 of the Cedent Reinsurance Claims Procedures or Sections 3.2.3.2 and 3.2.3.4 of the General Claims Procedures, a Notice of Determination of Agreed Class and Value for such POC.

3.3.3 These documents will contain sufficient information to apprise the Court of the salient facts regarding the POC and the parties' agreement such that the Court may, at the Court's discretion and with or without an evidentiary hearing, finally determine the agreed POC.

3.3.4 The Receiver's Recommendation will also be accompanied by a motion for final determination of the agreed POCs, together with a proposed form of Order setting the date and time of the final determination hearing for such agreed POCs.

### **3.4 Final Determination of Reconciliation Disputes**

3.4.1 In situations where a Reconciliation Dispute was not resolved after mandatory mediation as required by Section 5.1.1 of the Dispute Procedures and the dispute does not otherwise qualify as a Combined Dispute under Section 4.1.2.2 of the Dispute Procedures, the Receiver's Recommendation, the Receiver's motion for the final determination of the recommendation and the Receiver's submission in support of the Receiver's Recommendation will be filed with the Court.

3.4.2 If the claimant in the Reconciliation Dispute objects to or opposes the Receiver's Recommendation, the claimant must file an objection/opposition to the Receiver's Recommendation within thirty (30) days from the filing date of the Receiver's motion and submission in support of the Receiver's Recommendation.

3.4.3 Afterward, the Receiver will notify the Court that the matter is ready for final determination and request that the Court enter an Order for Hearing to be held at a time, place, and manner to be determined by the Court.

### **3.5 Final Determination Standard Disputes**

3.5.1 In situations where a Standard Dispute under Sections 4.1.2.2 or 4.1.2.3 of the Dispute Procedures was not resolved under Section 5.3 of the Dispute Procedures, the Receiver's Recommendation will be accompanied by the Receiver's motion for a scheduling order governing the final determination of the Receiver's Recommendation, together with the Receiver's submission in support of the Receiver's Recommendation which will be filed with the Court.

3.5.2 If the claimant in the dispute objects to or opposes the Receiver's Recommendation or proposed scheduling order, the claimant must file an

objection/opposition to the Receiver's Recommendation or proposed scheduling order within thirty (30) days from the filing date of the Receiver's motion.

3.5.3 If an objection is filed, the Receiver may, but need not, file a Reply. Any such Reply must be filed within fourteen (14) days from the claimant's objection/opposition.

3.5.4 Afterward, the Receiver will notify the Court that the motion is ready for final determination and request that the Court enter a scheduling order regarding the final determination of the dispute.

#### **SECTION IV MISCELLANEOUS**

4.1 The Receiver shall have discretion to group or batch recommendations 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.

4.2 The Court may, by Order, on its own accord or upon request of an interested person, alter any Procedure for a final hearing with notice to the Receiver and the Claimant(s) involved in such final hearing.

4.3 Retrocessionaires will be provided reasonable notice of pending claims, and are not prevented from conducting their own independent claim investigations and raising their own defenses by objecting to claim recommendations that the Receiver presents to the court.