

How to approach complex issues in Reinsurance Disputes*

Independence and Objectivity

PricewaterhouseCoopers' (PwC) Advisory Insurance and Reinsurance Dispute practice provides financial, economic, regulatory, statistical, actuarial, and technical services to cedants, reinsurers, in-house counsel, outside counsel, and other parties involved in litigation, arbitration or mediations, and other alternative dispute resolution forums. We provide technical and systems support that is critical in the data intensive analysis required for reinsurance matters. Our professionals have testified in countless high value matters and are seasoned in the presentation of facts and analyses in legal, administrative, and regulatory proceedings. We have managed outside counsel in insurance coverage and reinsurance disputes and served as party approved arbitrators where permissible. We understand the business and legal aspects of insurance and reinsurance disputes.

- How do you meet critical timeframes in an M&A transaction?
- How do you analyze voluminous accounting information and choose the most advantageous solution?
- How do you articulate damages in a reinsurance matter?
- How do you know if your cedants reporting is correct?

Our advisory reinsurance professionals provide a full range of services in these key areas:

- **Reinsurance Underwriting Audits/Investigations** – PwC has experience assisting reinsurers in routine audits of cedants as well as in performing formal investigations involving alleged breach of treaty terms.
- **Due Diligence** – PwC is able to dispatch multidisciplinary teams of accountants, actuaries, underwriters, and claims personnel on short notice to meet the demands of an M&A timetable. As day-to-day practitioners, each team member is able to add valuable insight to the collective understanding of the organization being scrutinized.
- **MGA/TPA Audits** – Both insurers and reinsurers are obligated to maintain proper control over third party service providers. PwC is adept at assisting clients in this control function. Our multidisciplinary teams can identify underwriting, processing and claims issues by performing on-site analysis at MGAs and TPAs.
- **Underwriting/Claims Review** – PwC is often retained by clients in matters involving complex property, liability and accident and health claims where an understanding of reinsurance issues is critical to success. Our underwriting and claims personnel have extensive experience assisting insurers in analyzing, supporting and presenting complex claims/losses to reinsurers.
- **Understanding Complex Treaty Arrangements** – Risks Attaching versus Losses Occurring treaty wording can affect the treaty year in which a particular policy will be ceded. We understand the differences in treaty wording as well as how to apply the differences in reviewing sessions.
- **Inuring Reinsurance** – Other treaties or facultative certificates may respond to a particular policy loss prior to the treaty in question. We understand the need to identify any inuring reinsurance as a first step in analyzing sessions.
- **International Experience** – Our U.S. based professionals span the globe. Many have worked directly in the London Market, Europe, Bermuda, Asia and Australia. Our depth and breadth of knowledge in the international arena is unmatched in the industry.
- **Actuarial Support** – PwC has one of the largest life, health, benefits and property and casualty insurance actuarial practices in the world. Our actuaries are highly experienced in diverse areas such as measuring insurance product profitability, loss and loss expense reserving, enterprise risk management, and working with regulators, financial analysts, and investors.

Arbitration/Litigation

PwC has the expertise to assist in arbitration and litigation matters that center around complex reinsurance issues. Recent examples include:

PwC Reinsurance Dispute Contacts

For more information please contact:

Chicago

Key Coleman
key.coleman@us.pwc.com
(312) 298-3413

Philadelphia

Andrew Rothseid
andrew.rothseid@us.pwc.com
(267) 330-2024

New York

Steve Sumner
steven.w.sumner@us.pwc.com
(646) 471-8117

www.pwc.com/us/dai/insurance

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- **Arbitration Involving Workers Compensation Carve Out** – Calculated net payments due the primary insurer from participants in an accident and health reinsurance pool. This sophisticated analysis required a thorough understanding of premium, claim, commission and reinsurance accounting records and testing the accuracy of these amounts as they had been reported to the pool. Claim and underwriting files were reviewed in conjunction with the accounting work to test the appropriateness of risk transfer and claims reporting. Expert testimony will be provided in the future.
- **Broker Litigation** – Calculated damages due reinsurer from alleged broker fraud. Analyzed submissions, bordereaux and electronic policy files to determine proper cessions according to treaty terms. Developed model to determine damages from alleged improperly-ceded policies. Provided expert report and testimony relating to damages.
- **Service as Arbitrators and Umpires** – PwC has a number of professionals that serve as arbitrators or umpires in reinsurance and other disputes. One of our partners has been certified as an arbitrator by ARIAS – U.S.
- **Due Diligence** – Performed due diligence work for a reinsurance company, analyzing underwriting files to determine if risks were properly written given the company's goals and management's assertions. Reviewed claim files to assess the quality of claims handling and timeliness of reporting. Traced premium and claims data to their accounting system to assess the accuracy of reporting.
- **Post-Acquisition Purchase Price Dispute** – On behalf of a prominent global reinsurer (purchaser), determined funds due former shareholders under a \$100 million earn-out provision following an acquisition. Analyzed complex provisions under the Stock Purchase Agreement in light of shareholder allegations and developed a model to examine financial statement data in order to rebut shareholder allegations. Provided expert report relating to damages.
- **Investigation** – Investigated reinsurance underwriter relating to alleged improper documentation regarding cessions of group life insurance policies with significant World Trade Center exposure. Analyzed multiple assumed treaties in order to determine the potential exposure. Provided confidential report of findings to client's counsel.
- **Claims Cession** – Assisted client with fact gathering, database compilation and analysis of numerous claimant data for losses arising out of mass torts to determine the appropriate reinsurance cessions under the applicable contracts of reinsurance.
- **Allocations** – Retained by both cedants and reinsurers to create database of policyholder claims to analyze complex allocation and aggregation issues in asbestos, environmental and mass tort reinsurance arbitrations.
- **Usual and customary reinsurance business practices** – Testified in arbitration as to whether conduct by a party in a reinsurance arbitration complied with regulations including Holding Company Act dividend requirements.
- **Financial Analysis for Pre-Award Security** – Conducted extensive financial and other analyses for a cedant to determine if pre-award security should be required from assuming company.
- **Expert Court Testimony** – Provided expert testimony in a judicial proceeding to assist a cedant establish that a course of conduct by an assuming company created a binding reinsurance arrangement within industry's custom and practice.

PricewaterhouseCoopers' Reinsurance Services provides businesses with the help they need in quantifying major insurance losses and resolving resulting claims. We draw upon our specialized insurance and industry capabilities to establish the value of business impairment and assist in loss adjustment in a broad range of coverage areas.