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# AN INTRODUCTION TO THE REINSURANCE ASSOCIATION OF AMERICA

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If you have an interest in the latest developments in state laws affecting reinsurance, or are concerned about federal activity with regard to terrorism or asbestos or need timely and reliable data on the U.S. reinsurance market you should know about the work of the Reinsurance Association of America (RAA). The RAA is a nonprofit trade association of reinsurers established in 1968. The association is headquartered in Washington, D.C.

The primary purpose of the RAA is to advance the interests of the U.S. property and casualty reinsurance industry through effective government relations with state and federal lawmakers and regulatory agencies and representation before judicial bodies. In addition, the RAA aims to build understanding of reinsurance regulatory issues and the reinsurance business among the media and other external audiences and to serve the needs of its members by providing information and assistance. **In recent years the RAA has opened opportunities for affiliate participation in the organization to life reinsurers, reinsurance brokers and offshore reinsurers who take great interest in the work of the association.**

The RAA engages in a variety of activities that serve its members and affiliates by representing their collective interests, as well as providing information and analysis to audiences outside the industry.

- **Legislation and Regulation**—The RAA is an active advocate for reinsurance interests before state regulators and legislators who directly regulate the insurance business. At the federal level, the RAA is active on insurance regulatory issues and other subjects such as terrorism risk insurance and asbestos funding initiatives.
- **Legal agenda**—The RAA serves as a resource for its members and affiliates on analysis of reinsurance statutes and case law nationwide. It represents its members' interests by litigating on their behalf and serving as *amicus curiae* on issues of importance to the reinsurance industry. The RAA publishes articles to further the development of reinsurance law in the United States.

- **Reinsurance Statistical Data**—The RAA provides aggregate data, including quarterly statistics on industry underwriting results, analysis of annual statement data on the reinsurance market, an underwriting review of premiums and losses, analysis of U.S. premiums ceded to alien jurisdictions and biennial studies on historical loss development. Many of the RAA reports and data products are available to the public.
- **Education**—Seminars on reinsurance for state insurance departments and for public audiences are held around the country each year. In addition, the RAA conducts conferences for members and affiliates covering reinsurance legal developments, tax, claims, accounting and environmental issues. The current slate of educational programs that are open to the public includes: Catastrophe Modeling, ReBasics, ReContracts, ReClaims and ReFinance.
- **Publications**—Numerous publications developed by the RAA provide industry data and help explain the complexities of laws and regulations affecting the reinsurance business.

## RAA Reinsurance Advocacy: Legislation and Regulation

The RAA represents its members before state legislators and regulators in the United States and, increasingly, in international forums. The RAA is the country's leading association of reinsurers and as a result is the reinsurer's voice before policy makers. The RAA's work accrues to the benefit of ceding and assuming insurers alike, since its objective is maintenance of a regulatory environment that is conducive to the utilization of reinsurance. Although the RAA works on all issues affecting reinsurance, our work broadly falls into three categories: credit for reinsurance, receivership and access to private reinsurance markets.

## Credit for Reinsurance

Some version of the NAIC's model credit for reinsurance law or regulation has now been adopted in



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every state. The movement toward standardization of these laws is due to the coordinated effort of state insurance departments and the RAA. Prior to the NAIC accreditation program, the state credit for reinsurance laws were a hodge-podge. Since these provisions establish the framework for the accounting of reinsurance, the RAA worked to ensure that the model law and regulation were in good form and then focused on working with legislators and regulators to win state adoption of the models. Uniformity in this area will ensure consistency in granting of credit for reinsurance and ensure that insurance companies domiciled in various states will not be disadvantaged because competitors are able

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to get credit for reinsurance on a different basis than they can. To date some 22 states have incorporated the key features of the most up-to-date version of the NAIC model—the 1996 edition. Work continues.

The RAA has also worked along with the U.S. primary industry to maintain the collateral required under present credit for reinsurance models. While some non-U.S. reinsurers have lobbied hard for the reduction of the amount of collateral required to support the U.S. reinsurance obligations of unlicensed and unauthorized reinsurers, the RAA has advocated for maintaining the financial security provided by the present system. U.S. reinsurers believe that, unless and until U.S. regulators and ceding companies can rely on comparable accounting bases and regulatory systems and can be assured that amounts due can be collected under foreign legal systems, full funding of U.S. reinsurance obligations is essential.

### Receivership Law

An example of the RAA's work on receivership law is the progress we've made in recent years to ensure recognition of cut-through clauses in reinsurance contracts. The RAA is not an advocate for the use of cut-through clauses, but our work ensures that if they exist, the contract provisions must be recognized by receivers to ensure that the beneficiaries of the cut-through agreement get paid and that rein-

surers are not in jeopardy of paying twice (to the receivership estate and to the cut-through beneficiary). Another example is the work the RAA has done to clarify state laws in relation to insolvency clauses. Insolvency clauses are required as a condition of credit for reinsurance, but state law often does not recognize or sometimes contradicts the common ingredients of such a clause, including the right to receive notice of a claim, the right to defend against a claim and the legal basis on which the reinsurance claim must be made under the contract. To date, the RAA has won modifications of these laws in 34 states.

The RAA focuses on all aspects of receivership law. The paramount goal of this effort is to ensure that contracts freely entered into by the now-insolvent insurer are enforced as intended by the receiver that has stepped into the shoes of the insolvent. If receivership law were to lead to the rewriting of contract provisions or to substantively changing the reinsurer's obligations, the effect likely would be to damage the reinsurance market for insurers domiciled in the state with the adverse law. Insurers domiciled in those states would likely be put at a competitive disadvantage when buying reinsurance vis-a-vis their competitors domiciled in states without such adverse receivership laws.

An example of the potential threat was the effort in the mid-1990s by receivers to try to estimate the IBNR of insolvent ceding insurers and compel reinsurers to pay reinsurance recoveries on the basis of that estimated IBNR. Such legislation was defeated in about a dozen states as the RAA fought to ensure that reinsurers' liabilities would be governed by reinsurance contract provisions. The RAA noted that receivers had a self-interest in inflating estimated IBNR so that a greater reinsurance recovery would be achieved. Further, the RAA insisted that the contract provisions govern how reinsurance claims are evaluated and paid and that reinsurers could not be retroactively bound to pay estimates for future liabilities when the contracts never contemplated such a payment pattern. Nor should the reinsurer be forced to pay based on predictions of events that may never occur. The RAA cited the wide variability in asbestos and environmental estimated liabilities as examples of the great fluctuations that can take place over time in the estimation of IBNR. The RAA has pointed out that the historically appropriate uses of IBNR are self-correcting over time



endorsing any of the pending proposals; rather, the association is committed to working with the proponents of such legislation to ensure adoption of an appropriate regulatory scheme for the reinsurance market. In the meantime, we believe there could be a role for the federal government to play in such areas as prohibiting states from applying their laws on an extraterritorial basis and encouraging reforms in protecting rights of interested parties in insurance receiverships.

The RAA has adopted a policy favoring national regulation for reinsurers. The policy would not abandon state regulation, but would provide for a sole regulator for reinsurers, whether that regulator



is at the state or federal government level. We think that reforms and efficiencies can be achieved by the states acting to enact federally adopted standards. Under this proposal, federal preemption would ensure that a reinsurer domiciled in a state that enacts the federal standards is free from insurance regulation by all other states. The plan would provide that an optional federal charter system for reinsurers would take effect as a backup should an insufficient number of states adopt the federal standards. Finally, the plan would benefit from the expertise embodied in state insurance solvency regulations by incorporating important NAIC model acts within both the federal standards and the optional federal charter regulatory schemes.

An important federal issue dealt with this year was the proposal to develop an asbestos trust fund for payment of claimants. The RAA participated actively in negotiations on this legislative proposal. The RAA believes that an acceptable program for asbestos reform must achieve certain fundamental principles—there must be certainty and finality associated with

any asbestos funding proposal and any resolution must be accomplished at a reasonable economic cost.

Finally, the RAA is very active in industry-wide efforts to work toward extension of the Terrorism Risk Insurance Act. Terrorism risk remains uninsurable in the traditional sense in that the frequency and severity of losses are unpredictable, thus the capacity that reinsurers are able to allocate to potential losses is limited. A federal backstop is essential to provide the capacity that remains unavailable in the private market. We support legislative and research efforts aimed at preventing the serious market disruptions that would result absent a federal backstop for terrorism losses.

## Legal Agenda

The RAA's legal staff advances reinsurers' interests through direct litigation and through participation as *amicus curiae* in state and federal courts. All of the issues that are the subjects of our legislative advocacy efforts are also potential topics for advocacy in the courts. In recent years the RAA has litigated setoff rights and claim estimation/acceleration issues in conjunction with the Mission receivership in California. This year the RAA acted as the primary litigant in an effort to prevent the imposition of claim estimation and acceleration in the Integrity receivership case in New Jersey. That litigation, which has been underway for eight years, may continue at least a few more years as the issues are expected to go on to appeal. Recent cases where the RAA has intervened as *amicus curiae* covered subjects such as protection of arbitration rights, interpretation of the follow the fortunes doctrine, defense against policyholder direct actions against reinsurers, support of setoff rights and determination of the appropriate limits of state authority under the McCarran-Ferguson Act, among others.

## Reinsurance Information: Statistical Data

### Industry Financial Results

The RAA is widely known for its signature quarterly report on the underwriting results of the U.S. reinsurance industry. This report is comprised of a spreadsheet containing underwriting information that includes premiums written and earned; policyholders' surplus; loss, expense and combined ratios; and several other categories of statistical information. The reports are the

only reinsurance underwriting statistics collected and made publicly available on a quarterly basis.

The *Reinsurance Underwriting Review (RUR)* has been published by the RAA since 1980. This report summarizes the underwriting and operating results of the nation's major property/casualty reinsurers, providing timely and comprehensive information on the U.S. reinsurance market. The newly expanded edition of the RUR contains additional tables and analytics on reinsurance recoverables, reserve and leverage ratios and invested assets. The new tables go beyond the traditional income statement review and include data from the balance sheet and Schedule F. The upcoming edition of the RUR reflects the 2003 experience of 50 organizations, including both individual companies and groups, whose data are reported in the appendices.

The contents of the RUR are based on data assembled by the National Association of Insurance Commissioners and on data received from the companies themselves, complementing the RAA's Quarterly Reinsurance Underwriting Report with additional information from a broader group of reinsurers. The booklet contains historical data on combined ratios and net income, and is a unique source of financial information for the U.S. reinsurance market.

### Market Share Studies

In addition to providing quality reports on reinsurers' financial results, the RAA also produces three market share studies that provide further insight into the industry. The P&C Market Share Report presents market share data for the top 50 U.S. P&C groups. It is a useful tool for market analysis of the U.S. primary industry and provides detailed line of business information in an easily accessible format.

Each line of business (e.g. fire, homeowners', etc.) is organized as a chapter in this report. The chapters begin with a presentation of five-year summary analytics on the percentage of premiums ceded, pure loss ratios and trends for direct, assumed, ceded and net premiums written. Each chapter includes a separate page for direct, affiliated assumed, nonaffiliated assumed, affiliated ceded, nonaffiliated ceded and net premiums written for the largest groups in each respective line of business. Each chapter also contains net pure loss ratios by line of business for each of the top 50 P&C groups. The companion Reinsurance Market Share Report presents the same detailed, line of business market share data for the top 50 U.S. rein-

surers. This report is an excellent tool for market analysis of the U.S. reinsurance industry.

The Alien Market Report has been published by the RAA since 1990 and analyzes the U.S. premiums ceded to and recoverables from more than 3,300 reinsurers in over 100 jurisdictions outside the United States. In addition, the report ranks jurisdictions with the largest participation in the United States for both affiliated and unaffiliated reinsurance business and provides historical market share trends of U.S. reinsurance companies versus alien reinsurers.

### Loss Development Studies

The RAA produces two widely referenced loss developments studies that have become standard tools for many actuaries who have a stake in the reinsurance industry. The Historical Loss Development Study has been produced by the RAA since 1969 to reinforce awareness of historical loss development pat-

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terns in companies writing casualty excess reinsurance business and in primary companies writing high-deductible or umbrella insurance. This 230-page book contains over 40 years of loss development data compiled from 23 companies and is full of insightful analysis of attachment points, ranges of variation, comparative treaty and facultative data and the impact of mass torts on loss development.

Comprehensive data is presented in the study for the major lines of insurance, including automobile liability, general liability, workers compensation and medical malpractice. The study also includes a comparison of reinsurer and primary insurer historical loss development. The 2003 edition also includes an exhibit on discounted vs. undiscounted development of workers compensation and presents analysis of the ratio of asbestos and environmental and other mass tort losses compared to total general liability emergence by accident year.

The RAA also publishes a catastrophe loss development study that presents aggregated reinsurer loss development data from 13 extreme events including the 2001 World Trade Center tragedy, major earthquakes, hurricanes and firestorms. Twenty reinsurers

contributed data to the study that was published for the first time in December 2002. World Trade Center reinsurer loss development is broken out by line of business, including: property, aviation, liability, workers compensation and life, personal accident and accidental death and disability.

## Reinsurance Information: Legal Resources

### Compendium of Reinsurance Laws and Regulations

The *RAA Compendium of Laws and Regulations* is written by reinsurance experts and contains 22 charts summarizing the laws and regulations of 51 U.S. jurisdictions. The publication covers key reinsurance topics, including: Allowance/Estimation of Claims, Arbitration Laws, Bulk Reinsurance, Campaign Finance Laws, Capital/Surplus Requirements, Contract Clause Requirements, Credit for Reinsurance Laws, Credit for Reinsurance Regulations, Cut-Throughs, Extraordinary Dividend Laws, Filing Requirements, Fraud, Fronting, Holding Company Act, Holocaust, Intermediary Model Act, Lobbyist Registration and Reporting, Mirror Image Reserving, Pre-Answer Security, Record Retention Requirements, Setoffs, Standard Fire Policy and Title Reinsurance.

### Digest of Reinsurance Case Laws

Since our legal system is based upon precedent, legal research is motivated by the necessity of determining what various courts within a given jurisdiction have held in the past when confronted with a set of

facts and questions of law similar to those adjudicated earlier. To meet this need, the RAA publishes its *Digest of Reinsurance Caselaw*, a major reference work that consists of a comprehensive collection of U.S. reinsurance case law indexed, cross-referenced and summarized for optimal ease-of-use. The digest is organized by topic areas to provide an effective and efficient tool a practitioner can use to uncover a particular case among the numerous cases in the 51 jurisdictions in the United States. Prior to its development no single, up-to-date, reinsurance-specific, U.S.-based case law digest existed.

### Reinsurance Contract Clauses—Case Law Annotations

Disputes often arise over the terms of reinsurance contracts, allowing the courts numerous opportunities to examine and interpret examples of reinsurance contract clause language. The *RAA Reinsurance Contract Clauses—Case Law Annotations* provides an index of these cases, organized by clause type, which is the most effective and efficient tool a practitioner can use to quickly discover interpretations of contract clause language throughout the United States. This exhaustive reference work is designed to give reinsurance executives, attorneys and contract writers easy access to court decisions by providing specific contract language extracted from the decision and the court's interpretation of that language.

For more information about the RAA, please visit [www.reinsurance.org](http://www.reinsurance.org). \*

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