

# Frequently Asked Questions About the Final Determination of Claims by the Court in the Liquidation of Indemnity Insurance Corporation, RRG

## 1. What is the Final Determination of Claims Process?

All creditor claims submitted to Indemnity Insurance Corporation, RRG, in Liquidation (“IICRRG”) have been evaluated through the Receiver’s Proof of Claims (“POC”) process. The Receiver has issued a Notice of Determination to each claimant that identifies the Receiver’s determination of the class priority and dollar value of the claim. The next step in the POC process is for the Court to make a final determination of the class priority and value of each POC. This process will involve the Receiver filing Claims Recommendation Reports with the Court and Motion for the Court to make final determinations regarding the Claims Recommendation Report. Due to the large number of POCs, the Receiver has divided the claims into six groups that, when added together, average approximately 500 POCs per group. To minimize any confusion, the title of each Claim Recommendation Report will correlate the claims group it represents. For example, the Claim Recommendation Report for Group 2 will be titled “Receiver’s Second Claim Recommendation Report”. The approximate timing of these filings is discussed in FAQ 13 below.

Following the Court’s final determination of the actual classifications and values of claims, the Receiver will ultimately distribute available assets in accordance with the statutory priorities of 18 *Del. C.* § 5918:

Class I	Administrative Expenses
Class II	Guaranty Association Administration Expenses (Not Applicable in this Liquidation)
Class III	Injured Party Claims, and Policyholder Claims, including Claims for the Return of Unearned Premium
Class IV	Taxes or Debts to the United States
Class V	Certain Claims for Compensation for Non-Officer Employees of Indemnity Insurance Corporation, RRG
Class VI	General Creditor Claim, 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

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 receive any payment. No subclasses shall be established within any class. Equitable remedies may not be used to circumvent the priority of classes. The largest class of creditors is Class III.

In addition, as noted below, regardless of your group, 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. In addition, as noted in FAQ 14 and 15 below, **regardless of your group, all**

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

## **2. What Is the Receiver's Claim Recommendation to the Court?**

The POCs filed with IICRRG were evaluated by claims professionals retained by the Receiver. Those claims professionals have extensive experience in managing and examining insurance claims, both for operating insurers as well as insurers in liquidation.

Based on that evaluation, the Receiver recommended both a priority classification (*e.g.* Class III, Class VI, etc.) and a value for such a claim.

## **3. Is the Receiver's Recommendation Final?**

No. The Delaware Court of Chancery, the Court supervising the liquidation, will determine the classification and value of each claim based on the Receiver's recommendation and information which may be provided by a claimant, should the claimant object to the Receiver's recommendation.

## **4. Are There Limits to What the Court Can Award?**

Yes, there are certain limits imposed by statute as to what the Court can award.

First, because a higher priority class must be paid in full before the members of the next class receive any payment, in order to receive *any* award, you must fall in a class that will be receiving a distribution. Due to the amount of claims as valued by the Receiver, the Receiver believes that the only classes that will receive a distribution are classes I-III. Classes IV-IX are not expected to receive a distribution.

For Class III liability claims of claimants and policyholders, the claim must fall within the coverage of an insurance policy issued by IICRRG, and the Court is limited to the amount of the limits of liability of that policy. The Court cannot award interest on any claim except that it may award interest up to the date of liquidation (April 10, 2014) from a pre-liquidation non-consent judgment.

## **5. Can the Court Consider a Judgment I Obtained in Another Action Against an Insured as Evidence of Liability or Damages?**

Not if the judgment was after liquidation. By statute (18 *Del. C.* § 5928(c)), no judgment taken after the date of the liquidation Order (April 10, 2014) 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.

**6. What do I do if I Agree with the Receiver's Recommendation?**

You need take no further action. The Court will review the Receiver's recommendation, and will enter an order allowing, allowing in part, or disallowing the claim.

**7. What Happens If I Disagree With the Receiver's Recommendation?**

If you disagree with the Receiver's recommendation, you must submit an objection by the Objection Deadline discussed below.

**8. How Do I Object?**

You will receive notification about the information required to be submitted to object to the Receiver's shortly after the dates for your Group as set forth in FAQ 13, below. At that time, you will be provided with information to log into a website where you can file your objection.

If you do not have access to the internet, you can request a form to file your Objection by contacting the Receiver by one of the methods set out below in FAQ 18.

**9. If I Already Objected to the Receiver's Notice of Determination, Do I Need to Submit Another Objection?**

Yes. Even if you previously objected to the Receiver's Notice of Determination, you still need to submit an objection to the Receiver's recommendation by the Objection Deadline, using the procedure described above. If you do not submit an objection under the above procedure, you will be deemed to have waived any right to Court review of the Receiver's Claim Recommendation concerning your claim, and will be deemed to have abandoned any objection to the Receiver's Claim Recommendation, and will have your claim determined by the Court as uncontested.

**10. If I Did Not Previously Object to the Receiver's Notice of Determination, Can I Object Now?**

Yes, you can object to the Receiver's recommendation even if you had not previously objected to the Notice of Determination. To object you must follow the above procedure on submitting an objection by the Objection Deadline.

### **11. Do I Need a lawyer for My Objection?**

For an individual, it is not required. It may be advisable, depending on your circumstances, to consult a lawyer.

Any lawyer representing you at the hearing on the objections must be admitted to the Delaware Bar.

A lawyer does not need to be admitted to the Delaware Bar in order to submit an objection on your behalf.

### **12. What if I Disagree with the Court's Determination of My Claim?**

Under 18 *Del. C.* § 5917(d), the Court's determination is an appealable order. How to appeal the Court's determination is beyond the scope of this FAQ. Please consult an attorney to advise you of your rights and the proper procedure.

### **13. When Will My Claim Be Decided?**

The Receiver has divided claims for submission to the Court into six groups (Groups 1 through 6) – approximately one group every successive quarter. Most groups consist of approximately 500 claims. Each submission will consist of two filings with the Court: (1) the Receiver's Motion for an Order to Show Cause Setting a Deadline for Claimants to Object to the Receiver's Claim Recommendation Report; and (2) the Receiver's Claim Recommendation Report. Each Claim Recommendation Report will be identified by the group number.

The first claim recommendation report (Group 1) has been filed with the Court. The following dates are estimated for filing Reports/Motions for the remaining five claims:

01/03/22	Group 2
04/03/23	Group 3
07/03/23	Group 4
10/02/23	Group 5
01/03/24	Group 6

You should have received a letter notifying you of the Group you are in. After the Receiver files a Claim Determination Report, the Receiver will send another letter to each claimant in the group, notifying them of the Objection Date, and how to file an objection. At that time, you will also receive an email from the Claimant's Portal set up by the Court. The email will be from [noreply@fileandserve.com](mailto:noreply@fileandserve.com). Please make sure your email is up to date with the Receiver.

### **14. Does Being in a Later Group Mean that I Will Recover Less Money?**

No. Regardless of your Group, all members of a class will receive the same *pro rata* value of their finally determined claims and will be paid at the same time. The Court's determination of the value of your claim does not take into account claims filed in prior (or later) Groups.

**15. Will I Receive the Full Value the Court Determines?**

No. Because the assets of IICRRG are not sufficient to pay all of IICRRG's liabilities it is not anticipated that Class III claimants will be paid in full. Therefore, upon the conclusion of the process, it is expected that each Class III member will receive only a portion of the value determined by the Court, on a *pro rata* basis. It is not expected that Classes IV-IX will be paid any distribution.

**16. Why Does My Notice of Determination as an Injured Party Give My Value as Zero, if the Insured Is Given a Positive Value?**

In cases where both an insured and one or more injured parties files a proof of claim, they are treated as a "Connected Claim Group." The Notice of Determination and recommendation of the Receiver provided a value for only one claim within a Connected Claims Group. Where there is an insured/policyholder, that entity receives the recommendation, with the value generally reflecting a component for costs of defense, and a component for the indemnity claim to the injured party. If the insured/policyholder presents proof at the time of distribution that it has paid some or all of the indemnity portion of the claim amount as valued by the Court to the injured person, the insured/policyholder receives the *pro-rata* distribution for the indemnity portion that it paid, with the remainder of any partial payment being distributed to the injured party. Otherwise, the injured party receives the full *pro-rata* distribution for the indemnity portion.

**17. When will claims distributions be made?**

The amount of the *pro rata* distribution for a class cannot be made until there are no longer any open claims and all IICRRG assets have been recovered. At that time, the Receiver will make application to the Delaware Court of Chancery, on notice to claimants, for approval of the distribution of payments. This means that distributions are made after all claims have been determined, and very close to the end of the delinquency proceedings.

**18. What if I Have Other Questions?**

You can contact the Receiver by mail at Indemnity Insurance Corp., RRG in Liquidation, c/o the Delaware Department of Insurance, Bureau of Rehabilitation and Liquidation, 1007 N. Orange Street, Suite 1010, Wilmington, Delaware, Attn: Estate Manager, or by email to [iicclaimsinfo@delrlb.com](mailto:iicclaimsinfo@delrlb.com); or by calling 877-472-8360.

## **19. What if I Have Technical Problems Signing in to the Portal.**

If you have technical issues signing in to the claimant portal, you can contact technical support by calling 1-888-529-7587 or by Email to [Support@fileandserve.com](mailto:Support@fileandserve.com)

There is also a chat option available at the bottom of the portal.

For non-technical questions, contact the Receiver