



**2010 Insurance Economic Summit:  
Navigating the Era of Reform**

**FOLEY**  
FOLEY & LARDNER LLP

**LECG**

**MACQUARIE**

©2010 Foley & Lardner LLP • Attorney Advertising • This results do not guarantee a similar outcome • Models used are not clients but may be representative of clients • 302 N. Clark Street, Suite 2800, Chicago, IL 60610 • 312.821.8200 • 170

---

---

---

---

---

---

---

---

---

---

---

---



**2010 Insurance Economic Summit:  
Navigating the Era of Reform**

**Troubled Insurance Companies In  
The New Economy:  
Are there Alternatives to Insolvency?**

**Lynne Prescott Hepler, Senior Managing Director, The Schacht Group  
Key Coleman, Managing Director, LECCG**

**FOLEY**  
FOLEY & LARDNER LLP

©2010 Foley & Lardner LLP • Attorney Advertising • This results do not guarantee a similar outcome • Models used are not clients but may be representative of clients • 302 N. Clark Street, Suite 2800, Chicago, IL 60610 • 312.821.8200 • 170

---

---

---

---

---

---

---


---

---

---

---

---



**Topics**

- I. Alternatives to Insolvency – Is there terra firma short of receivership?
- II. Reasons for Choosing Alternatives – Why is the landscape changing?
- III. Case Study

©2010 Foley & Lardner LLP 10.21.10

---

---

---

---

---

---

---

---

---

---

---

---



## Alternatives to Insolvency and the Emerging Landscape

- NAIC White Paper, “Alternative Mechanisms for Troubled Companies”, adopted March 2010
- AIRROC’s proposed “Uniform Insurer’s Run-off and Resolution Law”

©2010 Foley & Lardner LLP 10.7130

---

---

---


---

---

---

---

---



## Why Consider Alternative Arrangements?

1. The Insolvency Process Itself
2. Insolvencies Are Not Popular
3. Insolvencies May Add Costs
4. Pre-insolvency Transactions Can Recoup Surplus
5. Troubled Companies are Increasingly Varied, Dissimilar or Unique in Their Circumstances

©2010 Foley & Lardner LLP 10.7130

---

---

---


---

---

---

---

---



## Why Consider Alternative Arrangements (cont'd.)

1. Overview of the Insolvency Process
  - Seizure
  - Rehabilitation
  - Liquidation
  - Paying Claims
  - Collecting Reinsurance\*

\* Managing the Cost of Property-Casualty Insurer Insolvency in the U.S., 2002, Georgia State University

©2010 Foley & Lardner LLP 10.7130

---

---

---


---

---

---

---

---

 Why Consider Alternative Arrangements (cont'd.)

**2. Insolvencies Are Not Popular**

Who dislikes them?

- Insurance Departments
- Liquidation Bureaus
- Guaranty Funds
- Solvent Insurance Companies
- Policyholders

©2010 Foley & Lardner LLP 10.7130

---

---

---


---

---

---

---

---

 Why Consider Alternative Arrangements (cont'd.)

**3. Insolvencies May Add Costs**

- Guaranty Fund Costs
  - NCIGF Study
    - Added overhead expense
      - Minimum staffing levels
      - Transition costs
- Other Incremental Expenses
  - Recalcitrant Reinsurance
  - Aggregation difficulties

©2010 Foley & Lardner LLP 10.7130

---

---

---

---

---

---

---

---

 Why Consider Alternative Arrangements (cont'd.)

**4. Potential to Regain Surplus Through Transactions**

- Commutations
  - Direct Policies
  - Reinsurance Treaties and Certificates

©2010 Foley & Lardner LLP 10.7130

---

---

---


---

---

---

---

---



## II. Why Consider Alternative Arrangements (cont'd.)

4. Potential to Regain Surplus Through Transactions (cont'd.)

Reserves Eliminated	\$100 million
Less: Cash Paid	82 million
<hr/>	
Surplus Enhancement	\$ 18 million

©2010 Foley & Lardner LLP 10.7.10

---

---

---

---

---


---

---

---

---

---



## Why Consider Alternative Arrangements (cont'd.)

5. Troubled Companies are Increasingly Varied, Dissimilar or Unique in their Circumstances

7 Mortgage Insurers Lost \$14.9 Billion in the Last 2 Years

	2008	2009	Total
Net (Loss) Income	(11,343,069,000)	(2,504,667,000)	(13,847,736,000)
Other Comprehensive Income (Loss)	(7,539,022,000)	6,509,848,000	(1,029,174,000)
Total Comprehensive Income (Loss)	(18,882,091,000)	4,005,181,000	(14,876,910,000)

2008-9 10-Ks

©2010 Foley & Lardner LLP 10.7.10

---

---

---

---

---


---

---

---

---

---



## II. Why Consider Alternative Arrangements (cont'd.)

5. Troubled Companies are Increasingly Varied, Dissimilar or Unique in their Circumstances

- Highly Specialized
  - Different Claims
  - Unique Business Aspects
    - Hidden Assets
    - Hidden Earnings

©2010 Foley & Lardner LLP 10.7.10

---

---

---

---

---

---

---

---

---

---



### III. A Case Study

- Using old solutions to address new problems resulting from the economy
- The story of a real (but unidentified) insurer

---

---

---

---

---

---

---

---



### Overview of the Case Study

- The Insurer: Financial standing and products
- The Problem: Uncertainty
- First Solution: Traditional run-off
- Revised Solution: Solvency bridge Plan
- Prognosis: TBD

---

---

---

---

---

---

---

---