

U.S. INSURANCE AND
REINSURANCE
DISPUTE RESOLUTION
PROCEDURES

I. INTRODUCTION

1. Industry task force formed approximately two years ago, called the Reinsurance Dispute Resolution Task Force.
2. Task Force consisted of participants of primary insurers and reinsurers, experienced industry arbitrators and umpires, including:

Task Force Participants

Linda Martin Barber
Navigant Consulting, Inc.

Mark S. Gurevitz
The Hartford

Michael Lovendusky
American Insurance Association

Paul A. Bellone
Commercial Risk Re-Insurance Company

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Reinsurance Association of America

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Christian M. Milton
American International Group, Inc.

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KWELM Management Services, Ltd.

Ronald A. Jacks

Thomas S. Orr
General Reinsurance Corporation

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San Francisco Re/Fireman's Fund

Michael Kelly
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Pamela K. Parkos
Brokers & Reinsurance Markets Association

Richard DeCoux
PMA Reinsurance Corporation

Eric Kobrick
American International Group, Inc.

James J. Powers

Dale Diamond
AXA Reinsurance Company

Kathleen Krimmel
ACE USA

Kevin J. Shea
Signet Star Reinsurance Company

Caleb L. Fowler
Former President of CIGNA
Property/Casualty

Pierre G. Laurin
Zurich - U.S.

Gregory A. Speed
American Re-Insurance Company

James Sporleder
Allstate Insurance Company

3. Task Force missions and goals:

- increasing pool of available arbitrations;
- clarifying the terms used for arbitrator qualifications;
- reducing or eliminating opportunities for manipulation of the arbitrator or umpire selection process;

Missions and Goals

- providing a cost-efficient method to resolve small dollar disputes;
- reducing the opportunity for abusive discovery practices;
- generally providing increased clarity and certainty to the arbitration process.

4. Goals included the creation of industry-wide procedures that could be used in conducting insurance/reinsurance disputes that both
 - tracked the current custom and practice of the industry, and
 - improved upon current practice in certain areas, including umpire selection.

5. After two years of work, the Task Force has produced the U.S. Insurance and Reinsurance Dispute Resolution Procedures.

II. ABOUT THE PROCEDURES

1. The procedures address many of the administrative issues that arise in the course of an arbitration and clarify a number of potentially ambiguous areas, including:
 - the manner and timing of notices;
 - content of an arbitration demand and response;

ABOUT THE PROCEDURES (cont'd)

- timing for the appointment of arbitrators and umpires and appointment procedures in the event a party does not comply;
- confidentiality of the proceedings and the award;
- availability of interim relief;
- location of proceedings;

ABOUT THE PROCEDURES (cont'd)

- issues to address at the organizational meeting;
- ex parte communications;
- authority of the panel with respect to discovery;
- authority of the panel to determine motions for summary disposition;

ABOUT THE PROCEDURES (cont'd)

- authority of the panel to conduct a hearing in the absence of a non-cooperative party;
- conduct of the arbitration hearing, including evidence, interpretation of contracts, questioning of witnesses, issuance of subpoenas and testimony by various means; and
- timing, effect, content and form of awards.

2. In some cases, the Procedures depart from what may be usual practice in the industry in an attempt to improve the process. Examples include:

- simultaneous identification of party arbitrators 30 days after demand for arbitration is issued;
- a less arbitrary method of selecting an umpire when the parties have failed to agree on one;

ABOUT THE PROCEDURES (cont'd)

- voluntary, informal exchange of documents;
- encouragement by the panel that the parties submit to mediation in appropriate cases; and
- alternative streamlined procedures where both parties agree to utilize them.

III. POTENTIAL USES OF THE PROCEDURES

1. The Task Force envisioned several potential uses of the procedures including:
 - incorporation by reference into future contracts, and
 - voluntary use between trading partners to disputes arising under existing contracts.

2. By incorporating the Procedures in future contracts, contracting parties could use a simple, streamlined arbitration clause.
 - The Task Force has created guidelines to assist parties in how to incorporate the Procedures into contractual language. For example, while there are optional issues that contracting parties may want to address, like consolidation, there are several issues that the parties *must* address.

POTENTIAL USES (cont'd)

- The category of issues that *must* be addressed include: selection between two different arbitrator/umpire qualification clauses and selection of a particular list from which default umpires will be chosen.
3. Since many disputes arise from long-standing contracts that contain existing arbitration clauses, trading partners may choose to enter side agreements with one another, adopting use of the Procedures to disputes between them in existing relationships.

IV. ENDORSEMENTS

1. The Task Force has asked various industry trade associations to sign a statement of support for the Procedures.
2. The statement does not bind any association or member company, nor does the publication of the Procedures bind those who drafted them or the entities for which they are employed.

3. The statement recognizes that the Procedures are an important step forward in preventing unnecessary friction between contracting parties and giving them a greater degree of certainty in the arbitration process. It recognizes that parties may wish to consider them in the negotiation of future contracts or in applying them to existing relationships.

4. To date, the signatories of the statement include: the American Insurance Association (AIA), Association of British Insurers (ABI), Brokers & Reinsurance Markets Association (BRMA) and the Reinsurance Association of America (RAA).