

Arizona Insurance Department Places PMI Mortgage Insurance Company Into Receivership

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On October 20, 2011, the Director of the Arizona Department of Insurance filed a Complaint to place PMI Mortgage Insurance Company (PMI) into receivership in Arizona. In an interim Order, the court required the director, as Receiver, to take possession and control of PMI, which had been under the formal supervision of the insurance department since August 19, 2011. The court also directed that certain related affiliates of PMI be placed under administrative supervision. Reed Smith is forming a group of interested clients to enter an appearance in the Arizona proceedings to ensure that our clients have notice of the proceedings and an opportunity to participate to protect their rights.

PMI was one of a handful of companies writing mortgage insurance coverage, which insures a lender against loss from a borrower's default on a mortgage loan. PMI currently is paying approved mortgage insurance claims at 50 percent of their value and providing a deferred payment obligation for the remaining 50 percent. This resembles the run-off payment structure used by Triad Guaranty Insurance Corporation, an unrelated mortgage insurance company.

PMI is now under the total control of the Receiver and there will be a request to place PMI in formal rehabilitation, which distinguishes PMI from Triad. The gap between PMI's assets and liabilities is broad, and is expected to increase. In forming a group of interested mortgage insurance policyholders, our goal is to make sure that mortgage insurance policyholders have a seat at the table when the rehabilitation plan is being formulated and adopted. We expect to address a number of policyholder concerns, including the following:

Captive Reinsurance. Some policyholders have captive reinsurance that reinsures PMI's mortgage insurance obligations to the lenders. The captive reinsurance must be treated appropriately. The proceedings may address whether the captive reinsurance company may elect to directly pay the lender, whether reinsured claims will be treated as "secured claims" in any rehabilitation or liquidation of PMI, and whether PMI can collect from captive reinsurance based solely on its payments or based also on the deferred payment obligation.



Jurisdictional Disputes. The PMI Group, Inc. (PMI Group), PMI's parent, is seeking to regain control of its mortgage insurance subsidiary, and a ruling from the court in Arizona is expected in the near future. On October 24, 2011, PMI Group filed an 8-K Report, noting the effect of the receivership proceedings on its debt obligations. Some observers are concerned that PMI Group will enter bankruptcy proceedings. PMI Group is a Delaware corporation, principally located in California. A bankruptcy filing by PMI Group could lead to jurisdictional issues between the bankruptcy court and the court overseeing the proceedings in Arizona. Policyholders have an interest in ensuring that the assets of the mortgage insurance subsidiary are maximized, and that transactions within the holding company system are scrutinized.

Ensuring Prompt and Fair Claim Payment. Any rehabilitation or liquidation should ensure the prompt and fair payment of claims due under mortgage insurance policies. Unjustified rescissions of coverage are not an acceptable means of increasing solvency.

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