BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	
	:	
Application of ACE USA	:	
To Amend the Order of	:	
February 7, 1996 re the Plan of	:	Docket No. MS95-10-056
Restructuring of INA Financial	:	
Corporation, et al.	:	

AMENDED ORDER

AND NOW, this 28th day of January, 2011, upon consideration of the Application of ACE USA to amend Insurance Commissioner Linda S. Kaiser's Order of February 7, 1996, that approved the Plan of Restructure of INA Financial Corporation ("INA Financial"), Michael F. Consedine, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, makes the following Amendment No. 1 to the referenced 1996 Restructuring Order:

Findings/Background

1. On October 2, 1995, INA Financial Corporation filed with the Pennsylvania Insurance Department ("Department") a Plan of Restructure and Recapitalization ("Plan of Restructure") that provided for the realignment of management and the reorganization of INA Financial's domestic property and casualty subsidiaries into active and inactive operations.

2. In accordance with the Plan of Restructure, INA Financial created two new intermediate holding companies: INA Holdings Corporation, which owned the stock of the insurance companies in the active group, and Brandywine Holdings Corporation, which owned the stock of the inactive companies in run off.

3. There are currently eight Pennsylvania-domiciled insurers in the active group under INA Holdings Corporation.[1]

4. There is currently one Pennsylvania-domiciled insurer, Century Indemnity Company ("Century Indemnity"), under Brandywine Holdings Corporation.

5. Pursuant to the Plan of Restructure, INA Financial contributed $375 million of additional capital to Century Indemnity and assumed debts of Century Indemnity having a net present value of $125 million.

6. The Plan of Restructure established a minimum $25 million capital and surplus requirement for Century Indemnity to be maintained by an Aggregate Excess of Loss Reinsurance Agreement (the "XOL Agreement") provided by the nine active Pennsylvania companies. Pursuant to the XOL Agreement, the active companies provide reinsurance coverage to Century Indemnity in an amount up to $800 million, if the capital and surplus of Century Indemnity falls below $25 million. When utilized, the aggregate excess of loss reinsurance removes a sufficient amount of incurred losses from Century Indemnity's income statement, thereby increasing net income to a level that Century Indemnity's capital and surplus is raised to $25 million.

7. The Department approved INA Financial Corporation's Plan of Restructure on February 7, 1996 (hereafter "1996 Restructuring Order").

8. The 1996 Restructuring Order also set up a $50 million working capital fund to maintain Century Indemnity's capital and surplus at $25 million. The pertinent provisions of the 1996 Restructuring Order related to the working capital fund are as follows:

> 5. To the extent that dividends are paid by INA Holdings Corporation to its parent INA Financial Corporation, and to the extent that INA Financial Corporation pays such dividends to its parent, INA Corporation, such payments shall be in accordance with the following requirements:
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> ….
>
> b. Not less than ten percent (10%) of the dividends paid to INA Financial Corporation shall be retained by INA Financial Corporation for the sole purpose of establishing a working capital fund (hereinafter the "Fund") to support operations of Century Indemnity Company.

[1] At the time the Plan of Restructure was approved, there were nine Pennsylvania-domiciled insurers in the active group. On November 22, 2010 the Department approved the sale of ACE Indemnity Insurance Company to ACE US Holdings, Inc., an affiliated holding company within the ACE Limited holding company system. The transaction was completed on January 1, 2011.

c. The Fund shall be considered fully funded, and the retention by INA Financial Corporation of ten percent (10%) of any dividends received from INA Holdings Corporation may cease, when the cumulative principal amount of retained dividends, excluding investment income thereon, exceeds fifty million dollars ($50,000,000).

d. The principal amount of the Fund shall be fully funded to at least fifty million dollars ($50,000,000) by December 31, 2001 through the retained dividends or capital contributions.

e. In the event that the principal sum of the Fund decreases below fifty million dollars ($50,000,000), the amount of the shortfall shall be paid back into the Fund within five (5) years of the date on which the shortfall occurs and such repayment shall be made through the retention of dividends.

….

l. The Aggregate Excess of Loss Reinsurance Agreement shall not be triggered until all the monies in the Fund are exhausted.

9. Pursuant to paragraph 5(d) of the 1996 Restructuring Order, INA Financial established and funded the Fund with $50 million by December 31, 2001.

10. With Department approval, the entire initial funding of $50 million was contributed to Century Indemnity as of December 31, 2002.

11. Between December 31, 2002 and December 21, 2010 there were no dividends paid by INA Holdings Corporation to trigger replenishment of the Fund.[2]

12. Since December 31, 2002 the XOL Agreement has continuously maintained Century Indemnity's capital and surplus at $25 million.

13. On December 20, 2010, ACE USA requested modifications to the 1996 Restructuring Order to clarify certain sections related to the Fund that it considered to be vague and subject to interpretation. Specifically, ACE USA wishes to clarify the sections relating to the purpose of, and contributions to the Fund, subsequent contributions to Century Indemnity and how the ongoing operations of the Fund should interact with the XOL Agreement.

14. The proposed modifications would continue the practice since 2002 of utilizing the XOL Agreement to maintain Century Indemnity's minimum capital and

[2] On December 21, 2010, $15 million was deposited into the Fund as a result of dividends paid up to INA Corporation. Thus, the Fund balance currently stands at $15 million.

surplus requirement of $25 million. Capital contributions from the Fund would not be required unless and until the XOL Agreement has less than $200 million of capacity remaining on an incurred basis for statutory reporting purposes.

15. ACE USA filed analyses, to include a Cash Flow Model – Base and Stress Scenarios, to support the requested modifications and demonstrate that the proposed amendments would continue to accomplish the Plan of Restructure and 1996 Restructuring Order's objective of maintaining Century Indemnity's capital and surplus at $25 million.

16. Based upon all of the information and analyses received, and the Department's independent review, the Commissioner finds that the requested modifications to the 1996 Restructuring Order would continue to accomplish the objective of maintaining Century Indemnity's capital and surplus at $25 million and would not be injurious to the interests of Century Indemnity's policyholders.

AMENDMENT NO. 1 TO 1996 RESTRUCTURING ORDER

Upon consideration of the foregoing, the following subsections of the 1996 Restructuring Order are modified as follows:

Subsection b of Paragraph 5 is modified as follows:

b. Not less than ten percent (10%) of the dividends paid to INA Financial Corporation shall be retained by INA Financial Corporation for the sole purpose of establishing a working capital fund (hereinafter the "Fund") to support the liquidity and capital needs of Century Indemnity Company.

Subsection e of Paragraph 5 is modified as follows:

e. In the event that the principal sum of the Fund decreases below fifty million dollars ($50,000,000), the amount of the shortfall shall be paid back into the Fund through the retention of future dividends.

Subsection l of Paragraph 5 is deleted in its entirety and is replaced with the following language:

l. No capital contributions to Century Indemnity Company shall be required from the Fund until the Aggregate Excess of Loss

> Reinsurance Agreement (XOL) has less than two hundred million dollars ($200,000,000) of capacity remaining on an incurred basis for statutory reporting purposes. The amount of capital contribution required from the Fund shall be the lesser of: (1) the amount necessary to restore the remaining XOL capacity to two hundred million dollars ($200,000,000) or (2) the Fund balance.

In all other respects, the provisions of the 1996 Restructuring Order shall remain in full force and effect.

This Amendment No. 1 to the 1996 Restructuring Order shall be effective immediately.

Michael F. Consedine
Acting Insurance Commissioner