

# STATEWIDE INSURANCE COMPANY IN REHABILITATION

**To:** *Potential Creditors of Statewide Insurance Company*

**From:** *The Honorable Matthew Denn, Insurance Commissioner of the State of Delaware, in his capacity as Receiver of Statewide Insurance Co., through his Deputy Receiver, George J. Piccoli*

## SUMMARY OF PLAN OF REHABILITATION AND NOTICE OF BAR DATE

*On November 17, 2005, the Honorable Matthew Denn, Insurance Commissioner of the State of Delaware, in his capacity as Receiver (the "Receiver") of Statewide Insurance Company in Rehabilitation ("Statewide") filed a Petition for Approval of the Plan of Rehabilitation of Statewide Insurance Company (the "Petition") in the Court of Chancery of the State of Delaware in and for New Castle County (the "Court") in the matter captioned as "In the Matter of Statewide Insurance Company in Rehabilitation," No. 18668NC. The Court has issued to all interested parties an Order to Show Cause why the Plan of Rehabilitation should not be approved.*

**OBJECTIONS TO THE PLAN OF REHABILITATION MUST BE RECEIVED BY THE COURT OF CHANCERY ON OR BEFORE FRIDAY, JANUARY 6, 2006. A HEARING ON THE PLAN OF REHABILITATION WILL BE HELD ON FRIDAY, JANUARY 13, 2006, AT 10:00 A.M., AT THE COURT OF CHANCERY, 500 N. KING ST., WILMINGTON, DE 19801.**

**YOU MUST FILE A TIMELY OBJECTION AND ATTEND THE HEARING FOR YOUR OBJECTION TO BE HEARD BY THE COURT. PLEASE ALSO NOTE THAT IF THE COURT APPROVES THE PLAN OF REHABILITATION, ALL CLAIMANTS WHO ARE NOT EXEMPT UNDER THE PLAN MUST FILE A FULLY COMPLETED PROOF OF CLAIM WITH SUPPORTING DOCUMENTATION WITH THE RECEIVER ON OR BEFORE FEBRUARY 28, 2006 (THE "BAR DATE"), OR BE FOREVER BARRED FROM SHARING IN THE DISTRIBUTION OF THE ESTATE'S ASSETS. UNDER THE PLAN, DIRECT ACTIONS AGAINST STATEWIDE'S INSURED UP TO THE LIMITS OF THEIR POLICIES WOULD ALSO BE ENJOINED. THE BAR DATE SHALL SUPERSEDE ANY AND ALL APPLICABLE UNEXPIRED STATUTES OF LIMITATIONS.**

This Notice is being sent to you to advise you of the Receiver's Petition, the Plan of Rehabilitation and the Bar Date because you were either a former policyholder or former creditor of Statewide. Copies of the Order to Show Cause, the Receiver's Petition, with the attached Plan of Rehabilitation, the form of Order Approving the Plan, and the proof of claim form with instructions may be obtained in the following manner:

1. Downloaded from the web site of the State of Delaware, Department of Insurance, Bureau of Examination, Rehabilitation and Guaranty at [www.state.de.us/inscom/stwdinsco.shtml](http://www.state.de.us/inscom/stwdinsco.shtml).
2. Requested in writing by mail from the Receiver's staff at the following address: Statewide Insurance Company in Rehabilitation, 841 Silver Lake Boulevard, Suite 205, Dover, Delaware 19904. Please provide your full name and address on your request. The documents will be mailed to you by first class mail.
3. The documents may be requested in writing by facsimile from the Receiver's staff at the following Facsimile Number: (302) 735-5565. Please provide your full name and address on your request. Please note that the documents will be mailed to you by first class mail.
4. The documents will also be available at the office of the Register in Chancery, New Castle County Courthouse, 500 N. King Street, Wilmington, Delaware. Please be sure to reference the case caption to gain access to the pleadings: IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY, IN THE MATTER OF STATEWIDE INSURANCE COMPANY IN REHABILITATION, C.A. No. 18668NC.

The following is a brief summary of the Plan of Rehabilitation. This summary is not intended to replace the entire Plan of Rehabilitation. If you believe your rights are affected by the Plan of Rehabilitation, you should review the entire Plan of Rehabilitation and related pleadings.

The Receiver has collected and liquidated almost all of the assets. Almost all of the liabilities have been resolved. Only one open policy claim and a small number of general creditor claims remain to be resolved. The Receiver has paid all of the resolved policy claims, but has not paid the general creditor claims. The Receiver has determined that there will be sufficient funds to pay the policy claims in full, but that it does not appear that sufficient assets will be available to pay general creditor claims in full. Therefore, Statewide is insolvent. Two options are available: have the company declared insolvent and liquidated, or run-off the company under a Plan of Rehabilitation with a Bar Date. Under the liquidation approach, the involvement of the Delaware Insurance Guaranty Association ("DIGA") would be triggered, although there are presently no claims which would qualify as "covered claims" for DIGA to handle or pay. DIGA's involvement would also increase the estate's expenses, which would likely decrease the recovery for the general creditors. Therefore, the Receiver has determined that the better approach would be to run-off the company under a Plan of Rehabilitation with a Bar Date.

Although the Receiver believes that all claims should already have been reported to the Receiver, the Plan of Rehabilitation does provide until February 28, 2006, for potential creditors to file their claims with the Receiver on the proof of claim form appended to the Plan. **ANY AND ALL CLAIMS NOT FILED WITH THE RECEIVER ON OR BEFORE FEBRUARY 28, 2006 (the BAR DATE), SHALL BE BARRED FROM THE ESTATE AND SHALL NOT RECEIVE ANY DISTRIBUTIONS FROM THE GENERAL ASSETS OF STATEWIDE. THIS BAR DATE SHALL SUPERSEDE ALL UNEXPIRED STATUTES OF LIMITATIONS.**

Under the Plan, any claim which has been fully resolved through the issuance of a final settlement and release, the entry of a final, nonappealable judgment, or payment in full of all sums demanded or a compromised amount on or before December 31, 2005, and has been paid the amount due or the amount required by the settlement, compromise or judgment by the Receiver on or before December 31, 2005,

shall not be required to file a Proof of Claim. All such claim payments shall have been deemed allowed in the Policyholder Class (Class 2), and fully satisfied. All policyholder claims not resolved and paid on or before December 31, 2005, all Federal Government priority claims and all claims of general creditors shall be required to file with the Receiver a proof of claim on or before the Bar Date or their claims will be barred from distributions from the estate's assets.

The Plan of Rehabilitation also continues the injunctive relief in the Rehabilitation Order and includes additional injunctive relief concerning Statewide's insureds. **Under the Plan of Rehabilitation, all claims against either Statewide or its insureds for benefits under Statewide's policies would be required to be brought in the Rehabilitation Proceedings. Therefore, the Plan of Rehabilitation further provides that all persons are enjoined and restrained from pursuing any claim for policy benefits directly against an insured of Statewide up to the amount of such insured's policy limits.** This relief is designed to protect Statewide's policyholders from a third party's attempt to circumvent the Rehabilitation Proceedings by pursuing their claim directly against the policyholder rather than filing a claim against Statewide in the Statewide Rehabilitation Proceedings. Any payment made to a Claimant on an Allowed Claim pursuant to the Plan of Rehabilitation shall be deemed payment in full, without diminution, of Statewide's obligation to such Claimant, and shall constitute a full and final settlement of Statewide's obligations on the underlying Claim, and a full and complete release and discharge of Statewide, the Receiver, the Deputy Receiver, and all assistants, clerks, attorneys, accountants and consultants employed by any of them, of any and all claims, of any kind or description whatsoever, whether arising at law or in equity, known or unknown, arising out of or relating to the underlying Claim, these Rehabilitation Proceedings and this Plan of Rehabilitation. **Nothing in the Plan is intended to revive an expired statute of limitations as to any such claims.**

Under the Plan, Statewide would discontinue the defense and indemnification of its policyholders outside of the Rehabilitation Proceedings, except to the extent necessary to secure a dismissal of any claims against Statewide or its insureds (up to the policy limits for the latter) outside the Rehabilitation Proceedings.

The Plan of Rehabilitation proposed by the Receiver establishes priority classes for administrative expenses of the estate and claims against Statewide as follows. The priority of distribution of Statewide's General Assets under the Plan shall be in the following order, with every claim in each class below required to be paid in full or adequate funds retained for such payment before the members of the next class shall receive any payment:

A. **Class 1: Receiver's Administrative Expenses:** the Receiver's actual and necessary costs of taking possession of the insurer, preserving or recovering the assets of the insurer, and otherwise complying with Chapter 59 of the Delaware Insurance Code; reasonable compensation for all services rendered at the request of and on behalf of the Receiver, or his appointed Deputy Receiver, in the Rehabilitation Proceedings by the receivership's employees and its retained attorneys, accountants, actuaries, claims adjusters, expert witnesses and other consultants; and all expenses incurred by the Delaware Insurance Department in supervising the Rehabilitation Proceedings of Statewide.

B. **Class 2: Policy Claims:** Subject to the timely filing or deemed filing of a Proof of Claim by the Bar Date: Claims by policyholders, beneficiaries and insureds, including the federal or any state or local government if such government is a named policyholder, beneficiary or insured under the policy, arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company; liability claims, including liability claims of the federal

or any state or local government, against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, including claims for reasonable attorney's fees incurred by the policyholder to defend against the liability claim if such attorney's fees are covered under the policy, but only to the extent covered; policyholder's claims for refunds of unearned premium, and claims of insurers, insurance pools or underwriting associations for contribution, indemnity or subrogation, equitable or otherwise; provided, however, that this Class shall not apply to claims arising under reinsurance contracts, including any claims for reinsurance premiums due. Under the Plan, subrogation, contribution or indemnity claims of other insurers or their insureds against Statewide are specifically included in Class 2, "Policy Claims" to protect the Statewide insureds from direct suit by such other insurers. Claims alleging tortious conduct, such as a breach of the duty of good faith and fair dealing, or other claims alleging extra-contractual remedies are expressly excluded from this Class, and such claims, if any, would be considered claims in Class 4 ("general creditors") under this Plan of Rehabilitation. Under the Plan, interest shall not be allowed or paid on Class 2 claims, except that the value assigned to Class 2 claims arising from valid judgments entered on or before December 31, 2005, other than judgments by default or collusion, may include prejudgment and post-judgment interest through December 31, 2005, if such interest is required by law or contract. This Class shall also include the policyholder, third party tort and insurer subrogation claims which the Receiver has resolved through settlements or litigation and paid on or before December 31, 2005. However, as all of those claims will have been fully satisfied before the Bar Date, those claims will not be included in distribution plans filed by the Receiver after the Bar Date.

C. **Class 3: Federal Government Priority Claims:** Subject to the timely filing or deemed filing of a Proof of Claim by the Bar Date: taxes owed to the United States and other debts owed to the United States which by the laws of the United States are entitled to priority over the claims in Classes 4 and 5 below and which claims of the United States are not already included in Class 2 above. The Receiver does not anticipate that there will be any claims which qualify for this class. However, as a precautionary measure, the Receiver has included this class of claims to conform this Rehabilitation Plan to the ruling of the United States Supreme Court in *United States Department of Treasury v. Fabe*, 508 U.S. 491 (1993), and the ensuing related cases.

D. **Class 4: General Creditor Claims:** Subject to the timely filing or deemed filing of a Proof of Claim by the Bar Date: Claims of general creditors including, but not limited to, claims of ceding and assuming insurers in their capacity as such. This class shall include any Claims of the federal or any state or local government to the extent such claims are not otherwise included in Classes 2 or 3 above. Pursuant to a settlement agreement, approved by the Court on July 22, 2002, the Proof of Claim for Zutz has already been deemed filed and, therefore, is timely filed. All other general creditors will be required to file a proof of claim on or before the Bar Date of February 28, 2006.

E. **Class 5: Stockholder Claims:** The following claims shall be included in Class 5, "Stockholder Claims," without the requirement of filing a Proof of Claim: The claims of shareholders or other owners arising out of such capacity .