Augie tells me you were asking about the “Direct Access” and “Cut-Through” provisions of WFG’s insurance treaties. While my first instinct is to reassure you that WFG is very solvent and that we manage our risks conservatively – as evidenced by the very low attachment point of our treaty reinsurance – it is a legitimate question and a valid part of your due diligence about us. So I wanted to get you actual language in advance of our call on Friday.

As I suspect Augie has previously described, our first two layers of reinsurance are issued through Lloyds of London. Those layers of coverage automatically attach to every WFG policy with policy liabilities from $3 million to $10 million with the second layer attaching from $10 million to $20 million.

Because these apply on a “blanket basis” to all policies issued by WFG, we were not successful in negotiating a “Direct Access” or “Cut Through” provision in the treaty coverage. Their position was, probably rightly, that the Lloyds’ claims systems simply are not equipped to manage dozens, and certainly not hundreds, of independent party title claims with respect to policies that they will not see at all prior to the point of claim. They expect us as the primary insurer to build claims handling capabilities suitable to our size and the needs of our insureds.

We were able to negotiate a discretionary “direct payment” provision which kicks in following insolvency or state receivership which is reflected in Article 22 B, which reads:

**Insolvency & “Cut-Through” clause from 3-10 and 10-20 LLOYDS Policies.**

**ARTICLE** **22**

INSOLVENCY & ALTERNATE PAYEE

B. If the Reinsured becomes insolvent or is taken under supervision by the jurisdiction of its domicile then the Reinsurer may, subject to the terms and conditions of this Contract and in accordance with the Insolvency Article herein, indemnify the party who, but for the insolvency or supervision, would be entitled to payment by the Reinsured on a Covered Risk, as the alternate payee.

The Reinsurer will not pay more than once for the same Ultimate Net Loss covered under this Contract.

WFG reinsures policy amounts over $20 million on a facultative (per policy) basis. Because these reinsurance coverages are issued on a per policy basis and the reinsurer has a file with backup materials on each reinsured property, we negotiated the use of the ALTA International Facultative Reinsurance Agreement (With Direct Access) (10-16-08). That policy form includes the following Direct Access provision:

**3. DIRECT ACCESS**

Provided Insured shall give to Reinsurer notice of any claim under the Policy within a reasonable time after notice of the claim is given to or received by Ceder and is pursuing its remedies under the Policy against Ceder, unless prevented by law or regulation, then in the event that under the terms of the Policy Insured has sustained a loss or losses which, in the aggregate, exceeds Ceder's Primary Loss Risk, the liability of Reinsurer under this Agreement shall be extended to and in favor of Insured. Failure to so notify as provided in this paragraph shall not defeat the rights of the Insured hereunder unless Reinsurer shall establish that it was actually prejudiced by the failure, and then only to the extent of the prejudice. Thereafter, if Insured requests payment of Reinsurer's liability under this Agreement directly to Insured, then this Agreement may be enforced by Insured directly against Reinsurer to the extent of Reinsurer's liability to Ceder hereunder, without diminution, defense, setoff or counterclaim which Reinsurer may have against Ceder. Any defense to liability which Ceder has against Insured shall inure to Reinsurer.

Reinsurer agrees that Insured shall have the right to commence a legal action to enforce this Agreement against it in any state in the United States where Reinsurer is qualified to do business, provided that when any service of process is made in any action, a copy is sent by Registered or Certified Mail to Reinsurer at its address set forth in Schedule I.

The practical answer is a little different. In the event of a WFG insolvency, our state regulators will immediately appoint a court supervised conservator or receiver to protect the interests of our insureds and to make any claims that may be appropriate against reinsurance funds. Should that “worst case” scenario ever come to pass, one expects the need for direct access to be mooted.

I look forward to our call on Friday.

Alan