

FINANCIAL TIMES

Monday March 2 2009

Bureau with insurers' fate in its hands

NON-LIFE INSURANCE

News analysis

Century-old body hopes to be a model for future restructuring, writes Aline van Duyn

For 23 years, people with a total of \$2.9bn in unsettled claims to The Midland Insurance Co - including some for asbestos exposure and faulty breast implants - have been waiting to get paid.

The insurance company, which became insolvent in 1986, has been the responsibility of the New York Liquidation Bureau ever since. Set up nearly 100 years ago, the slightly sinister-sounding Liquidation Bureau acts as a receiver of insolvent insurance companies in New York.

But the insurance sector is under enormous financial pressure, as witnessed by the near-collapse of former giant AIG, the plunge in the share prices of tiny life insurance companies and the continued uncertainty around some bond insurers. It is the Liquidation Bureau that will decide which policyholders and creditors get paid if some companies do go under.

Until just over two years ago, the Liquidation Bureau operated with very little scrutiny.

It was never audited and paid its 300 staff by taking as

much as it needed of the \$3bn of assets left over from the insolvent insurance companies of which it was in charge.

The result was inefficiency and corruption; the then-head of the bureau was fired in 2006 and shortly after indicted for steering a contract to a company that employed her husband and using agency money to pay for travel expenses and childcare. She pleaded guilty last year.

Since then, the bureau has undergone a shake-up, spearheaded by Mark Peters, who took over as special deputy superintendent in August 2006.

The bureau issued its first audited accounts last year and is now legally obliged to do so every year. It has made numerous changes, including trying to tackle

difficult situations that have for a very long time been swept under the carpet, such as the fate of Midland Insurance.

In an effort to speed up the payment of claims and potentially give claimants higher returns than they would otherwise get, the Midland estate may be sold to private investors.

"A lot of steps have had to be taken to bring the Liquidation Bureau into the 21st century," said Mr Peters. "This Midland deal is a far

'A lot of steps had to be taken to bring the bureau into the 21st century'

Mark Peters
Deputy superintendent

more complicated bit of business than anything this place has done before, and it never would have been possible if we had not made the changes."

Many of the laws governing the bureau are extremely arcane. Just one example is the fact that its \$3bn of assets can only be held in cash or US Treasuries.

It has had to change its procedures, work with outside experts and set up legal frameworks to deal

with insurers whose business has become increasingly complicated and sometimes linked to complex financial instruments and derivatives.

"Insurance companies that have come to us recently have presented a whole new set of issues and a level of complexity different from what we have seen in the past," said Mr Peters.

The Liquidation Bureau only gets involved if all efforts to rescue or support an insurer by New York's insurance regulator have failed.

Eric Dinallo, New York's insurance superintendent, first crossed paths with Mr Peters when both worked for Elliott Spitzer, when the former governor of New York was Attorney General.

The Midland Insurance deal could be important for policyholders waiting for payments from insolvent insurers across the US.

Mr Peters expects it to be followed by further sales in the US.

Insurance regulation is done on a state-by-state level, but New York is one of the biggest centres for insurance, so its actions can set important precedents.

"If the Midland deal works, it will become an industry template on how to do this type of deal.

"Now that the legal structure exists to support such a deal, it could be applied to many other US insurance companies in receivership," Mr Peters says.



Process begins of seeking bids for insolvent insurer

This week, the New York Liquidation Bureau will start the process of seeking bids from investors such as private equity firms to take over The Midland Insurance Co, which has assets worth about \$1bn and owes \$2.9bn in unpaid claims, writes Aline van Duyn.

The sale of the portfolios of insolvent insurance companies to private investors - who can make money by settling claims

for less than they are worth on paper and by persuading reinsurers that owe money to pay up - has been done in the UK but never in the US.

In the Midland deal, investors will have to propose a guaranteed percentage of the claims that they will meet. Then, if the investors make profits above that level, they will have to propose a way to share those profits.

Milliman, an actuarial and

consulting company, has carried out a liquidation analysis of Midland. The insurer will only be sold if investors suggest bids that offer higher repayments of claims than Milliman has calculated the New York Liquidation Bureau can provide itself.

Following a public comment period of 45 days, the proposal seeking bids from private investors will be submitted for court approval.