

# Insurance recoveries can yield substantial assets for IPs

**Rob Samuel says there may be hidden gems recoverable in insurance contracts.**

**T**he recovery of outstanding insurances can be a complex process for insolvency practitioners (IPs). Not only does an insurance policy indemnify a company while actively trading, in liquidation it may provide a cash asset that can easily be overlooked. We have seen examples where companies have bought an insurance product and have not been fully aware of the coverage it provides and the possible recoveries that are due when the company fails. A thorough review of insurance coverage can produce significant financial benefits for an estate.

Upon entering receivership or liquidation a client is demoted in terms of priority by most insurance companies and brokers. Clients in liquidation are referred to as being 'in run off' with no future revenues anticipated to the insurance companies. This reduced client value manifests itself in file handling being transferred to satellite offices and service levels can be negatively impacted. Insurance brokers, despite being retained by the client, will often side with the insurers in the knowledge that the insurer will continue to be a market for the broker.

There are two main insurance recoveries relevant to IPs.

## 1) Outstanding claims recoverable

We have seen instances of claims being closed without payment to the client estate on the basis that they have gone into liquidation. These claims should be actively pursued since they represent considerable value to the estate. Alternatively, insurers may simply

ignore correspondence from a liquidator or make a weak representation to refute a claim.

For liquidators to confront and challenge this approach, they need to have access to and knowledge of the insurance industry. IPs should be aware that once a claim has been submitted to the insurer and substantiated with evidence, the onus is on

“Concerns over information from the client’s insurers should be raised with the FSA.”

the insurer either to pay the claim or detail the basis on which the claim has been rejected or the values reduced. IPs should not be put off if there are several insurers covering the same policy since a lead insurer would have been assigned to approve all payments and it is the broker’s responsibility to manage the collection process.

## 2) Return premiums recoverable

It is not only claims that are recoverable when companies go into liquidation. There are often opportunities to receive return premiums if the insurance policy is cancelled mid-term. The contract wording needs to be scrutinised and a return premium claim submitted to the insurer. Insurers’ attitudes have not proved to be sympathetic on monies that are contractually due in these instances and they will make attempts to refute return premiums. Ensuring that

insurers are promptly notified of the need to cancel the insurance contracts in place and asserting any rights to return premiums can lead to significant recoveries.

Some contingent insurance contracts will only come into force when a number of conditions are met. Clients pay a deposit premium upfront that might be recoverable if a company fails prior to the insurance conditions being met. The brokers should be able to identify and return these premiums, although they may be reticent to do so since they could forego a proportion of their brokerage as a result.

The introduction of a tougher regulatory regime under the Financial Service Authority (FSA) has improved the professionalism within the industry and eliminated some bad practices. If you have concerns over the information received from the client’s insurers or insurance brokers, you should contact the FSA who will clarify these issues and investigate, if appropriate.

There are often hidden gems recoverable from insurance contracts. IPs should be aware of the variety of recovery means that exist and seek professional advice to identify and assist in maximising the insurance recoveries. □



Rob Samuel is a partner at Flag Partners.



**Assisting Insolvency Practitioners maximise their recoveries on insurance premiums and claims**

To arrange a FREE assessment of all your clients insurance issues:  
Call **08000 807804** or email **info@flagpartners.co.uk**

**www.flagpartners.co.uk**