



United States Department of Agriculture

Farm and Foreign Agricultural Services  
Risk Management Agency

**BULLETIN NO: MGR-07-002**

**TO:** All Reinsured Companies  
All Other Interested Parties

**FROM:** Eldon Gould /s/ *Eldon Gould* 1/17/2007  
Administrator

**SUBJECT:** Standard Reinsurance Agreement, Section IV  
Subsection R - Mediation, Arbitration, Litigation and Assistance

**Background:**

Beginning with the 2005 reinsurance year (June 1, 2004), and for each subsequent reinsurance year, new requirements for approved insurance providers were incorporated into the Standard Reinsurance Agreement (SRA) as follows:

R. Mediation, Arbitration, Litigation and Assistance

...

2. In accordance with procedures, the Company may request FCIC to provide non-monetary assistance, including witnesses, documents, and direction or such other assistance for mediation, arbitration or litigation. **FCIC will only consider the Company's request for assistance if the Company:** (*emphasis*)

- a. Reports the matter in accordance with paragraph 3;
- b. Immediately notifies FCIC in writing of the requested action setting forth the reasons such action would be in the best interests of FCIC;
- c. Presents all legal arguments favorable to its defense including those suggested by FCIC; and



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The Risk Management Agency Administers and Oversees  
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- d. Does not join FCIC as a party to the action unless FCIC agrees in writing to be joined as a party.
- 3. The Company shall report to FCIC in accordance with established procedures, disputes with policyholders in mediation, arbitration, litigation or legal action, within 30 days after the Company has been notified of such dispute.  
...

Further, section IV.R. of the SRA states:

- 5.b. In all arbitration and mediation cases or any other case that has been settled by the Company and policyholder:
  - i. The Company must provide the FCIC all written statements from the arbitrator describing the issues in dispute, the factual findings, the determinations and the amount and basis for any award;
  - ii. The Company must provide to FCIC all settlement agreements that contain at a minimum, a statement of the issues in dispute and the amount of the settlement;
  - iii. The Company must provide to FCIC all written opinions of the court, all pleadings filed in the case, and other documentation requested by FCIC; and
  - iv. Failure of the Company to provide the required information in this subparagraph for an eligible crop insurance contract will result in denial of reinsurance for such contract.
- 6. Under no circumstance are any punitive or consequential damages, attorney fees or any other cost, including court costs, included in the calculation of ultimate net loss.
- 7. For the purpose of this subsection only, the term “settlement” means the compromise or resolution of a dispute under an eligible crop insurance contract between the Company and a policyholder.

**Action:**

In accordance with section IV.R.3. of the SRA, attached are the procedures for providing required information. In addition, information must be provided under section IV.R.2.a and 5.b. of the SRA. The attached also includes the procedures for providing the required information.

Nothing in this Bulletin changes, modifies, or otherwise amends any requirements in section IV.R of the SRA. This Bulletin only transmits the procedures to the approved insurance providers for submitting all required information pertaining to the mediation, arbitration and litigation reporting requirements.

**OPERATING PROCEDURES UNDER STANDARD REINSURANCE AGREEMENT, SECTION IV.R. – Mediation, Arbitration, Litigation, and Assistance**

**I. PURPOSE**

To provide procedures/guideline for Compliance’s Appeals, Litigation and Legal Liaison Staff to use in cataloging litigation issues reported under section IV.R. of the Standard Reinsurance Agreement (SRA).

**II. OBJECTIVE**

To monitor the reinsured companies defense of the Federal Crop Insurance Corporation’s procedures, regulations and/or crop policies.

**III. AUTHORITY**

Section IV.R. of the SRA

**IV. RESPONSIBILITIES**

A. The approved insurance provider/managing general agent:

1. Report all mediation, arbitration, litigation or other legal action to Compliance and the Data Acceptance System (DAS) within 30 days after the Company has been notified of such dispute;
  - i. The report should include a copy of all documents initiating the proceeding;
  - ii. All information required under section IV.R. of the SRA must be forwarded to:

USDA Risk Management Agency  
Deputy Administrator for Compliance  
STOP 0806  
1400 Independence Avenue, SW  
Washington, D.C. 20250-0806

iii. DAS System

The Company shall report to the DAS System disputes with policyholders in mediation, arbitration, litigation or other legal action within 30 days after the Company has been notified of such dispute in accordance with Appendix III of the SRA, by editing the Dispute Notification Flag on the Type 14 – Insurance in Force Record in Field No. 41.

2. If the company is seeking litigation assistance, provide Compliance immediately in writing notification of the requested action with a detailed explanation of why assistance by FCIC in the proceeding is in the best interest of FCIC. This explanation should include the facts of the dispute, the applicable policy or provision, a legal analysis of the impact an adverse decision may have on the crop insurance program and the action sought from RMA (e.g. witness, documents, etc.).
3. Prior to submitting any request for reimbursement under the ultimate net loss provision of the SRA the company must;
  - i. Provide Compliance with all written statements from the arbitrator describing the issue in dispute, the factual findings, the determinations and the amount and basis for any award;
  - ii. Provide Compliance with all briefs or other evidence filed by both parties with respect to any mediation or arbitration;
  - iii. Provide Compliance all settlement agreements that contain at a minimum, a statement of the issues in dispute and the amount of the settlement; and
  - iv. Provide Compliance all written opinions of the court, all pleadings filed in the case, and other documentation requested by Compliance.

**B. Compliance's Appeals, Litigation and Legal Liaison Staff (A&L):**

1. Receive all information under the subsection;
2. Check DAS report to see if case was initially reported to FCIC;
3. Check other logs within A&L to see if case has been submitted for any other legal review;
4. Maintain catalog of all information;
5. Prepare informational memorandum to the Office of the General Counsel for a legal analysis of the company's defense;
6. Receive and review DAS Report monthly, to see if any company should be submitting information;
7. Notify in writing the Reinsurance Services Division of companies who have failed to timely report mediations, arbitration, litigations, or other legal actions or have not provided the required documentation.