

Insurance & Reinsurance - Sweden

Njord liquidation finally draws to an end

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Swedish insurance company Njord Insurance filed for liquidation in 1991, becoming the first insurance company in Sweden to do so since 1910. The liquidation attracted much attention both domestically and internationally. A number of steps were taken by the Swedish authorities to avoid similar incidents in the future.

Some of Njord's insureds that had encountered losses had to file for liquidation in turn.

Njord also accepted reinsurance and had a share in the indirect cover of a number of large losses, such as those of Kuwait Airlines and the Exxon Valdez.

A large number of claims, including insurance and reinsurance claims, were lodged in the liquidation. Initially, 1,073 claims were lodged, amounting to approximately Skr2.2 billion. Following due claims procedures, the liquidators (both inside and outside the courts) eventually accepted claims amounting to a total of Skr1.4 billion as valid.

The claims were lodged in various currencies, but converted on the day of payment into Swedish krona, leading to certain implications arising with regard to the respective claims.

Two advance payments (preliminary and conditioned on the creditor providing security) were made in 1999 (20%) and 2001 (6%) to creditors holding valid claims.

At the end of October 2008 the assets of the estate amounted to approximately Skr683 million, of which Skr179 million was interest earned on the capital during the course of the liquidation.

The claims procedure has given rise to many insurance-related problems (while leading to the creation of certain principles with which to govern similar situations in the future) and procedural problems. Such problems include:

- the issue of whether the set-off of counterclaims is possible;
- the role of the higher courts once a claim has been accepted by the bankruptcy court (either by default or on the merits);
- whether new evidence regarding a claim may be presented in the higher courts; and
- whether a claimant is entitled to request a hearing to bring witness evidence in the higher courts.

The liquidators filed their proposed final payment scheme in Spring 2009, having settled all outstanding claims. The final dividend and distribution of funds in accordance with the scheme was subject to there being no appeal against the scheme, which was not foreseen.

However, an appeal was in filed by the supervisory authority with regard to the costs relating to the liquidation, that is, the fees charged by the liquidators. However, the appeal was dismissed by the lower courts, and on January 19 2010 the Supreme Court denied the authority leave to appeal. Thus, the 18-year-old story of the liquidation of Njord Insurance can at long last be considered to be drawing to an end.

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