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SJR 27 – HELPFUL DEFINITIONS

The following definitions are homespun, with some help from various sources. All errors are the author's.

Assets (see also Equity/Surplus and Liabilities)

Assets include the income from investments, buildings, and equipment and encompass both reserves, which are the estimated amounts of money that premiums must produce to cover the cost of claims in any particular "accident" year, and equity or surplus. Assets are necessary to pay liabilities, both known and unknown obligations.

Assigned Risk, a component of the Residual Market

An assigned risk or residual account refers to an employer that is mandated by law to secure workers' compensation insurance but who cannot obtain a policy of coverage from a private market insurer or a state fund.

An assigned risk pool is a component of the residual market, which is the aggregation of all assigned risks or residual accounts. A state may set up an assigned risk pool to allow workers' compensation coverage for those businesses that are required to have workers' compensation but that have been rejected by voluntary insurers as too high a risk. Sometimes a business may be rejected not because of a history of risk or job classifications that are hazardous but because the business is too new to indicate what risk it poses.

Factors associated with assigned risk include a likelihood of higher rates and therefore higher premiums. It is not clear if companies can easily move out of the assigned risk pool. NCCI, which provides various residual market tools, includes a credit incentive for insurers to get businesses out of the residual pool and into the voluntary insurance market.

The risk pool may involve:

* use of reinsurance that results in proportional assignment of financial responsibility. NCCI uses a separate quota share reinsurance agreement for each state and policy year. The quota is based on the insurer's voluntary market share of direct workers' compensation written premium in that state in the previous calendar year.
* management by an entity that assigns on a rotating basis those high-risk policyholders rejected by other insurers to member insurers in the pool. In 2016 NCCI operated a National Workers' Compensation Reinsurance Pooling Mechanism in which 23 states participated. NCCI also provides certain services (financial, actuarial, and carrier services, for example) for the states of Indiana, Massachusetts, Maine, Michigan, Missouri, New Mexico, and Wisconsin.

Equity

The term "equity" is often used interchangeably with the term "surplus." Equity is the cushion that a solvent insurer maintains to meet unexpected expenses, including retroactive application of court decisions.

Guaranteed Market

A guaranteed market, according to 39-71-2312, MCA, means "the insurer that is required to insure any employer in this state who requests to insure their liability for workers' compensation and occupational disease coverage and that may not refuse to provide coverage unless an employer or the employer's principals have defaulted on an obligation and the default remains unsatisfied."

A guaranteed market is one of two ways of making sure that a product that by state law is compulsory for employers is available even if a private sector insurer chooses not to offer insurance to an employer. The other is an assigned risk or residual market. (In Montana and many other states a business also might self-insure if it meets certain criteria.)

Indemnity, Indemnity Benefits

As defined in the "Workers' Compensation Annual Report," indemnity benefits are those payments made directly to a worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for meals, travel, or lodging. An indemnity benefit for a temporary total disability amounts to 66 2/3% of the wages received at the time of injury, up to the state's average weekly wage at the time of injury.

Market Cycles

Markets may be "hard" or "soft", which indicates whether competition is tight or not. The economy often affects the income that bolsters the reserves used to pay claims. If the economy sours, a drop in investment income may impact reserves, if investment income is expected to form part of reserves. A drop in investment income also is sure to hurt the insurers' surplus, which is used to pay the unexpected, unanticipated costs for which reserves may be insufficient.

Except for state funds with guaranteed market responsibility, private insurers have a right to choose where, when, and how to write their policies. Policymakers may consider availability of coverage, which describes the number of companies available to write coverage in an area, as well as affordability, which describes whether pricing remains consistent and expected.

Monopolistic Fund

Four states operate their own workers' compensation systems through state government: Ohio, North Dakota, Washington, and Wyoming. Prior to the Old Fund being separated from the New Fund and running into roughly $500 million in uncovered liabilities in the mid to late 1980s, Montana also ran its own system through the state government instead of having what is a state entity that operates as an insurer, Montana State Fund. In addition to running its own work comp system, a state with a monopolistic fund typically does not allow competition by other insurers, although there are exceptions, as noted below:

* Ohio and Washington allow companies to self-insure.

* Wyoming does not require certain employers to purchase workers' compensation insurance, which means their purchases are "elective." These businesses generally are not considered highly hazardous.

Prior to transitioning to private market status, both Nevada and West Virginia had monopolistic funds.

Mutual Insurer

A mutual insurer, as defined in 33-28-101, MCA, means "a business entity without capital stock and with a governing body elected by the policyholders." Mutualization would mean changing an insurer of another type into an entity owned by its policyholders.

Privatize

The term "privatize" means (for the workers' compensation world) to take a monopolistic state fund or a state entity insurer and make that insurer into a private sector-style insurer. The privatized insurer is not a state government entity but may still have an obligation under contract to serve as a guaranteed market. Privatization can happen in various ways. A Legislature may decide to allow a guaranteed market state fund to mutualize or become a mutual insurer. That happened in Maine and West Virginia. Utah's Legislature took a different approach by naming its state fund a quasi-public corporation, which WCF Insurance says on its website is a corporate entity that is private in ownership and that serves a public purpose. Michigan privatized its state fund by selling the assets to a private company. Reasons for privatizing have ranged from states being in difficult financial situations (Michigan) to the state funds being millions or billions of dollars in debt (West Virginia and Nevada.)

Reserves

Reserves amount to a specific amount of money, prefunded and set aside to ensure adequate funds to cover future claims, according to the Council for Affordable Health Insurance. Reserves are usually based on paid premiums, are used for expected financial obligations, and equate to "money in the bank" for payment of claims in an accident year. Reserves are not surplus.

Residual Market

The residual market encompasses assigned risk pools that operate within a state or within a national plan. A residual market may be used by employers unable to purchase workers' compensation insurance in the voluntary market or for whom a guaranteed provider is unavailable. Missouri and Nebraska contract with one carrier to provide coverage for residual market risks. Florida operates a joint underwriting authority, and other states may have variations of a residual market theme.

State Funds (Guaranteed Market)		State Funds (With Residual Market)	States With Wholly Private Insurers			Monopolistic States
California+	New York+	Idaho**	Alabama**	Iowa**	N. Carolina***	Ohio+
Colorado+	Oklahoma+	Minnesota	Alaska**	Kansas**	S. Carolina^ **	North Dakota+
Hawaii+	Pennsylvania^	Missouri^	Arizona**	Massachusetts*	S. Dakota**	Washington+
Kentucky+	Rhode Island+	New Mexico*	Arkansas**	Michigan*	Tennessee**	Wyoming+
Louisiana+	S. Carolina^	Oregon**	Connecticut**	Mississippi****	Vermont**	
Maine*	Texas+		Delaware***	Missouri*	Virginia**	
Maryland+	Utah+		Florida+	Nebraska+	West Virginia**	
Montana+			Georgia**	Nevada**	Wisconsin*	
			Illinois**	New Hampshire**	D of Columbia**	
			Indiana*	New Jersey***		

^Pennsylvania, South Carolina, and Missouri designations differ, depending on the source. One source says Pennsylvania is a State Fund with a residual market. NCCI says Pennsylvania's State Workers Insurance Fund is an insurer of last resort but also is a competitive provider for those who can get a policy issued elsewhere. South Carolina's State Accident Fund, created by the S.C. Legislature in 1943 as the State Workers Compensation Fund, has elements of both the guaranteed market and the all-private market. Now the SAF is a separate agency with a mission of providing "a cost-effective guaranteed workers' compensation market for state agencies, other government entities, and if required by the legislature, small businesses in the private sector." Missouri Employers Insurance Co., established by the Legislature in 1995, is a public competitive workers compensation insurer and the largest writer in the state.
*Uses NCCI for limited financial or administrative services, for example, for its own Residual Market Pool. Missouri has appointed NCCI as the aggregate excess of loss reinsurance administrator.
**Uses both NCCI's Workers' Compensation Insurance Plan and NCCI's National Pool. (The National Workers' Compensation Reinsurance Pooling Mechanism).
***Uses only the NCCI National Pool. New Jersey also uses NCCI for certain administration services.
****Uses only the NCCI Workers' Compensation Insurance Plan.
+Does not use NCCI residual market tools.

STATE FUNDS

A state fund is an insurer that typically has a majority of politically appointed board members and that typically provides a guaranteed market for workers' compensation coverage. A state fund bears the financial responsibility for policyholder claims by underwriting policies after assessing risk and following basic policywriting procedures. State funds are financially self-supporting, relying solely on the premiums and investment income from those premiums.

Surplus (See Equity)

The term "surplus," often used interchangeably with "equity," serves as the cushion for unexpected expenses. An insurer may include a component in its premium pricing for equity because the written premium in any one year cannot be increased in later years to cover unexpected expenses. The component goes toward equity/surplus, which is typically invested.

Voluntary Market

The voluntary market means in nonmonopolistic states those insurers who agree to provide workers' compensation coverage for an employer on a normal basis (not part of the residual market or not the guaranteed market). The voluntary market may include both public and private insurers, provided they have the ability to decline or not renew coverage.

Sources:

http://leg.mt.gov/content/Committees/Interim/2013-2014/Economic-Affairs/Meetings/May-2014/Hockman-presentation.pdf

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U.S. Chamber of Commerce, 2009 Analysis of Workers' Compensation Laws

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2016 Oregon Workers' Compensation Premium Rate Ranking Summary and related document (p. 3)

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