

NY Child Victims Act: Don't Ignore Reinsurance Issues

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Reinsurance Alert

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New York's Child Victims Act (CVA) – which opens a one-year window for sex abuse victims of any age to bring a lawsuit for abuse that occurred at any time – took effect on August 14, 2019. Just in the first day of its enactment, over 400 CVA cases were filed against individual perpetrators and the institutions allegedly responsible for the perpetrators' conduct. Many more are expected to flood the New York courts. As your claims department begins to grapple with the various coverage issues arising out of this influx of suits, there are a number of critical reinsurance issues that your reinsurance team should consider.

- **Accumulation:** It is likely that many victims will bring claims against the same insured. Even if each individual victim is a separate occurrence during each policy period when abuse occurred, your treaty language may allow for the accumulation of these multiple occurrences. The potential to accumulate is a fact specific inquiry that should be undertaken as soon as possible so you do not jeopardize any of your potentially applicable reinsurance.
- **Dates of Abuse:** For many victims, the abuse occurred decades ago. Therefore, the complaint may not state the exact years of abuse, or the dates of abuse may change as discovery progresses. As these dates change, it is important to make sure the correct reinsurers receive notice and appropriate updates.
- **Existence of Reinsurance:** It is essential to understand your company's reinsurance program during all relevant periods of coverage. Since the abuse could implicate policies issued decades ago, you may need to search through archived reinsurance files to determine what reinsurance is potentially available.

There are many other reinsurance issues that will arise as a result of these molestation claims that you will need to consider and the guidance of experienced reinsurance counsel is recommended as these claims progress.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.