



**Market Turbulence- A look at Bankruptcy Trends in Canada** (Recorded January 21, 2021)

Follow up question (Not answered during webinar)

**Question:** I have AR insurance coverage. When an account is late or we have a dispute, when should we advise DRC? Should we advise our carrier of DRC?

**Answer:**

**Fred Webber:** You should talk with DRC right away for guidance and to ensure you understand your rights and responsibilities. That first call is called a consultation and DRC does not contact your trading partner at that stage. Next steps will be explained at that time.

You should and are likely obligated to advise your insurance company of the DRC. Most policies require you to exhaust your efforts to resolve the issue before a claim is paid. Your insurer will likely fully support your efforts as they are interested in the debtor paying as well.

**David Lousky:** The policyholder must notify the insurance carrier when a buyer is in a state of default as defined by the trade credit insurance policy as being 60 to 90 days past due. Furthermore, the policyholder must exhaust all collection efforts via the DRC and a copy of the payment arrangement or DRC Award has to be shared with the carrier.

**Question:** If we file a DRC claim can we still collect thru our insurance?

**Answer:**

**Fred:** If the claim is disputed, it is likely insurance will want the dispute resolved before committing to payment, and DRC is the forum to do that.

**David:** Yes, a simple slow pay (non-payment) is considered an insured claim and the carrier is responsible to indemnify 85 to 90%. In the case of a commercial dispute, the carrier will not get involved until a clear resolution is provided.

**Question:** If an insurance claim is paid can we collect the deductible through DRC?

**Answer:**

**Fred:** In our experience the answer is no. When the claim is paid by the insurance company it is our understanding you will have transferred all of your rights on the transaction to the insurance company. Additionally, the insurance company will endeavor to collect the entire claim amount. This opens the possibility the deductible amount would be collected twice.

**David:** In the event of a claim, the insurance carrier will retain 10%-15% of the invoice value and indemnify 85% to 90% of the outstanding invoices. The subrogation rights (invoices) are transferred over to the carrier.

**Question:** Can the Insurance company use DRC to recover on an account they have paid out on?

**Answer:**

**Fred:** In most cases the answer will be no. The DRC Rules including the arbitration agreement are binding between members. If a member has been paid by the insurance company prior to opening a DRC file they are no longer owed money and would not have a cause of action under our rules. Since the insurance company is not a member there is no obligation for the debtor to enter into a binding arbitration with the insurance company.

The preferred for you would be to open a DRC file promptly and advise your insurer you have done so. If the debtor pays the matter is resolved.

**David:** In the event of a claim under slow pay (protracted default) the insurance carrier can transfer the collection rights under the policy to the policyholder who completes the DRC process. Once the DRC process is completed, any uncollected amounts will be indemnified by the insurance carrier.

All DRC members with a trade credit insurance program should request collection rights from their respective carriers.