NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
WASHINGTON, DC
FEBRUARY 28, 2009
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at the Hyatt Regency Washington on Capitol Hill in Washington, DC, on Saturday, February 28, 2009, at 9:45 a.m.

Rep. Frank Wald of North Dakota, Vice Chair of the Committee, presided.

Other legislators present were:

Rep. Greg Wren, AL
Sen. Ralph Hudgens, GA
Rep. Ron Crimm, KY
Rep. Robert Damron, KY
Rep. Susan Westrom, KY
Rep. Chuck Kleckley, LA
Del. Aisha Braveboy, MD
Rep. George Keiser, ND
Assem. Nancy Calhoun, NY
Sen. James Seward, NY
Rep. Todd Book, OH
Rep. Dan Dodd, OH
Sen. John Sparks, OK
Rep. Anthony Melio, PA
Sen. David Thomas, SC
Rep. Charles Curtiss, TN
Sen. Joseph Minard, WV

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its meeting on November 21, 2008, in Duck Key, Florida.

IAIS/NAIC INTERNATIONAL DEVELOPMENTS

Ekrem Sarpher of the National Association of Insurance Commissioners (NAIC) said the NAIC launched a Solvency Modernization Initiative (SMI) in 2008 to focus U.S. regulators on other forms of solvency oversight, starting with Solvency II as well as the Basel II banking accord and initiatives in Australia and Canada. He said that an NAIC Task Force will focus on five areas of the SMI, including capital requirements, international accounting, group supervision, valuation issues in insurance, and reinsurance.

Mr. Sarpher overviewed activity of International Association of Insurance Supervisors (IAIS) Subcommittees on solvency, insurance groups and cross-sectoral issues, and governance and compliance. He reported on Subcommittee papers, noting that the Solvency Subcommittee had recently completed standards on the structure of capital, enterprise risk management, and internal models, and would continue work on asset liability valuation and capital resources.

Mr. Sarpher reported that the NAIC had signed ten memorandums of understanding (MOUs) with countries including China, Egypt, Iraq, Hong Kong, and Russia, among others. He said that California, Iowa, Nebraska, and New York State had also entered into MOUs with certain foreign nations.

Mr. Sarpher said that Solvency II has undergone a number of revisions since the European Commission adopted it in 2008. He reported that the European Parliament and Council are due to consider the proposal in 2009 and that further revisions are expected before it is implemented in 2012. He said that the NAIC was reviewing key differences between the U.S. system and Solvency II as part of the SMI and that the NAIC had already completed a technical comparison of the U.S. system and Solvency II as adopted by the European Commission.

Mr. Sarpher said that the NAIC believes the U.S. system of regulation, including on-site exams, off-site analysis of financial performance, and frequent interaction with regulated entities, must continue. He noted that the NAIC believes that it must evaluate how the current U.S. regulatory structure will address recent shocks to the economic system.

SOLVENCY II PROGRESS AND U.S. EQUIVALENCY ISSUES

Ed Stephenson of Barnert Global, representing the Group of North American Insurance Enterprises (GNAIE), said that Solvency II is facing an important deadline of April 20, 2009—when the ongoing European Parliament session ends. He said that if Parliament does not vote on Solvency II by that date, then in the next session of Parliament a conference committee-like process would exist and it could take as long as one year for Parliament to reconsider the proposal. He reported that three groups were working on specific language regarding five (5) different issues: group support, equities valuation, group supervision, pro-cyclicality, and third-country issues. He said that the groups had not been able to get past the first two issues.

By way of overview, Mr. Stephenson said that the European Union (EU) is working on a Solvency II Directive that is an update and collectivize of the solvency regulations to which EU companies that are domesticated in European jurisdictions would be subject.

Rep. Keiser asked, in light of the economic crisis, whether there is a commitment to move forward with Solvency II or whether there is a sense that regulators should consider a new approach.

Mr. Stephenson said the answer is divided. He said that 12 countries, generally recognized to be led by Spain, have raised issues regarding group support and may agree that Solvency II needs to be looked at in a new light. He said that there may be less impulse to do that, however, because Solvency II is a broad framework that will be fleshed out by technical guidance later on. He added that many countries want to get the larger framework in place to allow changes necessary to react to the financial crisis. Mr. Stephenson said that he was told that there was a “50-50” chance that countries would overcome the division.

Brad Kading of the Association of Bermuda Insurers and Reinsurers (ABIR) said that the European perspective was that there is a great need to advance Solvency II because Solvency I is inadequate and because many important jurisdictions have already moved beyond Solvency I. He said the lessons that Europeans are taking from the capital crisis include a need to strengthen measures regarding group supervision, economic capital modeling tests and analysis, and stress and scenario tests.

Mr. Kading said that a Bermuda delegation had travelled to Brussels at the end of January to present amendments on three areas regarding regulatory equivalence. He reported that the amendment proposals focused on: making sure mutual recognition includes regulatory equivalence and that regulatory equivalence pieces are consistent throughout the Directive; clarifying group support language; and confirming that if regulatory equivalency is reached, third-country regulation would apply to third-country insurers—instead of applying European regulation to third-country insurers.

FUTURE COMMITTEE ACTION

Rep. Wald questioned whether a report on the financial health and capital adequacy of the reinsurance community may be appropriate for the NCOIL Summer Meeting. Mr. Kading said that for Bermuda publicly traded companies, the aggregate capital reductions for year-end 2009 were about 15 percent. He said that an analysis of filings shows that Bermuda companies' performances are a little better than those of European or American companies.

Regarding reinsurance market capacity, Mr. Kading said that there is still capacity available and that the capital decline should not affect market supply. He said the sense is that the capital decline may just reduce that industry cushion a bit.

Mr. Stephenson said that the International Accounting Standards Board (IASB) is continuing its work on an insurance contracts paper and added that the U.S. Financial Accounting Standards Board (FASB) had joined the effort. He said that before the NCOIL Summer Meeting, the IASB and FASB should have made some very important decisions regarding a measurement basis for insurance contracts.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:15 a.m.

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