

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
INTERNATIONAL INSURANCE ISSUES COMMITTEE  
POINT CLEAR, ALABAMA  
NOVEMBER 16, 2012  
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at The Grand Hotel Marriott Resort in Point Clear, Alabama, on Friday, November 16, 2012, at 11:00 a.m.

Sen. Travis Holdman of Indiana, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Rep. Charles Curtiss, TN
Sen. Carroll Leavell, NM	Rep. Bill Botzow, VT
Rep. George Keiser, ND	Rep. Kathie Keenan, VT
Sen. David O'Connell, ND	Del. Harry Keith White, WV

Other legislators present were:

Rep. Steve Riggs, KY	Sen. Peter Pirsch, NE
Rep. Mike Huval, LA	Rep. Don Flanders, NH
Sen. Dan Morrish, LA	Sen. William Larkin, NY
Rep. Gene Reynolds, LA	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director  
Ed Stephenson, Nolan Associates, NCOIL Director of State-Federal Affairs-DC

## MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 13, 2012, meeting in Burlington, Vermont.

## NAIC INTERNATIONAL ACTIVITIES

Commissioner Jim Donelon (LA) described the NAIC's work with the International Association of Insurance Supervisors (IAIS). He described the IAIS as similar to the Basel Committee of banking regulators and International Organization of Securities Commissioners (IOSCO) of securities regulators. He said NAIC regulators were active in the development of the revised Core Principles, adopted by the IAIS last year. He pointed out that those principles will form the basis that the International Monetary Fund (IMF) will use to measure the effectiveness of U.S. insurance regulation in the upcoming Financial Sector Assessment Program (FSAP) exercise.

Commissioner Donelon said the U.S. 2010 FSAP results were good, with the U.S. observing 25 out of 28 of the Core Principles. He said the IMF deemed U.S. insurance supervision generally to be effective, and several elements of U.S. supervision to be world-leading. Commissioner Donelon said that NAIC regulators and staff are working to ensure that IAIS Principles and projects positively reflect the principles and methods of U.S. insurance regulation and the excellent performance of U.S. insurance regulation in the recent financial crisis.

Texas Commissioner Eleanor Kitzman reported that one reason why the NAIC is spending as much time as it is on these international projects. She pointed out that the President said at a meeting of the G20 a few years ago that the U.S. will comply with global standards for banking, securities, and insurance. She said that the IAIS sets those standards for insurance, and the use of those standards is measured through the FSAP scorekeeping process.

Commissioner Kitzman then gave an update on IAIS work on the Common Framework (ComFrame) for the supervision of Internationally Active Insurance Groups (IAIG). She said the project is intended to operationalize the application of the IAIS Core Principles to large, global insurance groups. She said that the U.S. approach to group supervision is very different from that of the Europeans because they take a top-down approach. She said that the states have used the NAIC to build a robust and cooperative system of regulation that serves policyholders and industry well, in spite of possible inefficiencies.

Commissioner Kitzman said ComFrame will set common standards for the supervision of IAIGs, but the ultimate role of ComFrame is still under discussion. However, she said that it should be expected that ComFrame will be part of FSAP reviews in the future, and that the ComFrame standards will drive practices for all companies, in order to maintain a level playing field. She said companies are also concerned about how the prescriptions in ComFrame will affect their domestic business.

Commissioner Kitzman said the current efforts regarding ComFrame are focused on ensuring that the process developed desired outcomes, without too much prescription. She said that U.S. and non-U.S. regulators are working to understand each other's supervisory systems in order to reach that goal. She said she believes the ComFrame effort is important and that IAIGs will affect your domestic markets soon, even if they do not now.

Sen. Holdman asked what would be the impact of adopting an international or European-style standard on the companies or consumers in his state. Commissioner Kitzman responded that the main difference between those standards and the U.S. system is that the U.S. uses entity-based supervision. In other words, she said, domestic insurance regulators worry about the financial soundness of the insurer in their jurisdiction, and less about sister entities regulated by other states.

Commissioner Kitzman said the U.S. uses a "windows and walls" approach that allows a Commissioner to see information about other entities in the insurer's structure, but that the domestic insurer is "walled off" from the risks they pose. She said that under Solvency II, and in several European jurisdictions today, it is the holding company that is licensed, and there is an "empowered regulator" who can impose supervision and prescriptions on the entire group. She said this "empowered regulator" may even restrict how much supervision the regulators in other jurisdictions can perform.

Commissioner Kitzman also mentioned accounting standards as an area of difference. Commissioner Donelon added that any international standard imposed on the U.S. regulatory system that changes the capital requirements would have an immediate and wide-ranging effect on the availability and affordability of insurance.

Rep. Keiser said he was glad that the NAIC has such good people working on these issues. He said, however, that he's asked several times for the NAIC to reassure him that U.S. insurance companies are prepared for the eventuality of Greece's default, and he asked the Commissioners present to try again.

Commissioner Kitzman started by saying that she feels the U.S. approach to solvency is superior to approaches in other nations, and that the U.S. effort starts with NAIC Statutory Accounting (Stat). She said she recognizes that the industry does not like having to report in both U.S. Generally Accepted Accounting Principles (US GAAP) and Stat, but that Stat's assessment of whether a company could handle all of its obligations coming due at once gives the U.S. regulator the power to intervene earlier than other jurisdictions. Commissioner Donelon said that the states have other solvency surveillance methods in place as well.

Commissioner Kitzman said that the strength of the U.S. guaranty fund system should also give comfort. She said that regulators recently ran a test on how a major life company insolvency might impact guaranty funds, and that the NAIC was satisfied with the results. Lastly, she said that the U.S. has better asset quality and asset diversification requirements than other jurisdictions.

#### INTERNATIONAL ACCOUNTING STANDARDS

Doug Barnert of Barnert Associates, Inc. said that as NAIC staff and regulators engage supervisors from around the world, the discussion has increasingly turned to accounting. He said that without a common language for accounting for instance you cannot set common capital standards. He said one issue in establishing a global accounting standard is the basis of that standard. He said that some are designed to measure solvency, while others are designed to provide information to investors.

Mr. Barnert said that there are supervisors from other countries who admire NAIC Statutory Accounting. He said that with the delay in Solvency II, many are looking to create their own statutory accounting by taking the standards for investors and applying "prudential filters" that would convert it to a standard for solvency. He said supervisors and industry in Asia and South America are reaching out him, the NAIC, and others in the U.S.—as the reform effort is essentially how U.S. Statutory Accounting is created. He said the "emerged markets" of China and Japan are particularly important in these developments.

Mr. Barnert said that work of the International Organization of Securities Commissioners (IOSCO) is potentially related. He said that IOSCO recently released a standard on securitization, the use of which should eventually be measured by the FSAP process. IOSCO could also set a rule requiring the use of international accounting standards, he said, and this would put additional pressure on the Securities and Exchange Commission (SEC) to adopt those for use in the U.S.

Mr. Barnert described the International Federation of Accounting Standards Setters (IFASS). He said it is a group of 150 standard setters from around the globe who are responsible for the adoption or endorsement of the work of the International Accounting Standards Board (IASB) in their jurisdictions. He said the IASB has agreed to give the IFASS a seat at the table, which complicates things for stakeholders because there will be another layer of organizations with which to negotiate.

#### INDUSTRY PERSPECTIVE ON INTERNATIONAL ACTIVITIES

David Snyder of the Property Casualty Insurance Association of America (PCI) reminded the Committee that legislators ultimately make the decisions, that they choose to enact or reject the legislation required to implement international efforts.

Mr. Snyder said that the work of the IAIS is truly broad. He said that in addition to what was already discussed, the IAIS is working on market conduct, corporate governance, and other items. He said the most important work streams for the insurance industry are ComFrame and efforts related to the designation of firms posing global systemic risk (G-SII). He said the U.S. property-casualty (P-C) industry believes that no U.S. firm should be so designated, given the strength of competition in the U.S. market. He said legislators should watch this effort closely. He said a third area of concern is the relationship between the U.S. and the E.U., which he said are the two largest insurance markets.

Mr. Snyder then addressed Sen. Holdman's question regarding the impact on companies and consumers. He said that tiny companies in one or two states exist alongside regional writers, major national companies, very large U.S. companies that compete globally, and the U.S. subsidiaries of foreign multi-nationals. He said the laws that legislators have put in place have created the most competitive insurance market in the world, and arguably the most competitive marketplace for any good or service on the face of the globe. He said convergence to international standards should at least not harm this market.

Second, Mr. Snyder said policymakers should be aware of the bleed-over effect. That is, he said, when provisions intended for limited types of companies, e.g. those that pose systemic risks, tend to bleed into regulation for other types of companies. He said this happens because the initial companies complain of an unlevel playing field and regulators forget the provisions were intended for a limited purpose. He said that improper concepts applied to only a few companies tend toward a broader application eventually.

Third, Mr. Snyder said there is a competition for the future of insurance regulation. He warned that changes can occur that bypass state legislatures. He urged legislators to guard against this by continuously improving regulation, whether that is done using international ideas or ideas developed in the U.S.

#### LETTER TO THE U.S. TRADE REPRESENTATIVE (USTR)

Ms. Thorson reported that NCOIL staff, as directed by the Committee at the Summer Meeting, contacted the Executive Committee for names of legislators interested in Intergovernmental Policy Advisory Committee (IGPAC) membership. She said that Sen. Leavell, Rep. Keiser, and Rep. Keenan responded and that NCOIL forwarded their names and background information to Isaac Faz, an NCOIL contact at the USTR. She said the USTR will review the information and contact the legislators directly. Sen. Holdman asked that Ms. Thorson keep the Committee updated.

Mr. Snyder said that U.S. P-C insurers lose about \$40 billion a year due to trade barriers. He added that the Transpacific Partnership is probably the number one forum for trade negotiations and that insurance is a major component. He said that the related trade agreement may come up for enactment in the U.S. in 2013. Lastly, he said there is discussion of E.U.-U.S. Free Trade Agreement negotiations, to begin in the first half of 2013.

#### U.S.-E.U. DIALOGUE

Mr. Stephenson said discussions referred to as the U.S.-E.U. Dialogue began between the NAIC and E.U. supervisors some years ago, but became more contentious around the meaning of "equivalence" under Solvency II. He said that about a year ago the Federal Insurance Office (FIO) became involved in the discussion. He said that FIO Director Mike McRaith suggested a white paper to compare similarities and differences between the regulatory systems as a starting point for further discussion. Mr. Stephenson said the report

was completed quite quickly and the group is now considering the comments received. He said the reception for the report has been generally good and that interested parties consider the report to be balanced.

Mr. Stephenson recommended that the Committee focus on the next steps of the U.S.-E.U. Dialogue. He said that suggestions have been to identify areas of possible convergence and to determine a path forward for resolving the issue of "equivalence." He said the Committee may also be interested in how the dialogue group implements any agreed-upon changes to the U.S. regulatory system. Mr. Stephenson suggested adding a charge for the Committee to monitor the next steps of the dialogue.

#### 2013 COMMITTEE CHARGES

Sen. Holdman referred the Committee to the meeting materials, wherein the proposed 2013 charges were listed. He asked for a motion to approve the charges as amended by Mr. Stephenson's recommendation. The amended proposal was:

- examine developments/repercussions regarding global systemic risk and other regulatory efforts (e.g., ComFrame, Solvency II, G-SII designations, NAIC Solvency Modernization Initiative)
- explore impacts of converging U.S. and international accounting standards
- advance dialogues with U.S. and EU officials in order to promote the benefits of state regulation
- continue efforts to preserve state insurance oversight in light of U.S. trade agreement activity
- monitor U.S.-EU insurance regulatory dialogue, particularly with regard to next steps

Upon a motion made and seconded, the Committee unanimously adopted the proposed 2013 charges.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 12:00 p.m.