NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
SPECIAL SESSION ON FINANCIAL SERVICES REGULATORY REFORMS/GAO REPORT
WASHINGTON, D.C.
MARCH 8, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) met at the Hyatt Regency on Capitol Hill in Washington, D.C., on Friday, March 8, 2013 at 2:15 p.m.

Rep. Greg Wren of Alabama, NCOIL President-Elect, presided.

Legislators present were:

Rep. Bryon Short, DE	Sen. David O'Connell, ND
Sen. William Haine, IL	Rep. Bob Hackett, OH
Rep. Jane Pringle, ME	Rep. Michael Stinziano, OH
Rep. Pete Lund, MI	Rep. Marguerite Quinn, PA
Sen. Jim Marleau, MI	Rep. Brian Kennedy, RI
Rep. Margaret O'Brien, MI	Rep. Bill Botzow, VT
Rep. Don Gosen, MO	Rep. Mary Czaja, WI
Sen. Norman Sanderson, NC	Sen. Dale Schultz, WI
Rep. George Keiser, ND	Sen. Mike Hall, WV

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 Legislative Affairs–DC
Eric Ewing, Nolan Associates, NCOIL Director of Legislative Affairs

OVERVIEW OF FEDERAL FINANCIAL REGULATION ISSUES

Julie Gackenbach of Confrere Strategies gave an update on federal financial regulatory efforts as they relate to the insurance industry. She said that two reports due to be released soon are the U.S. Treasury modernization report and the Federal Insurance Office (FIO) annual report. She said that a separate FIO report on the availability and affordability of insurance in underserved markets is in its early stages.

Ms. Gackenbach said that a lesser known department created by the Dodd-Frank Act, an Office of Financial Research (OFR), provides information to the Financial Services Oversight Committee (FSOC) and other regulators. She said that OFR has recently opted to use data provided by state insurance regulators rather than collect their own. She said that OFR has taken the lead on working with international bodies to develop a Legal Entity Identifier (LEI) in order to assist regulators in tracing products all the way to their source. She said that LEI is intended to address concerns related to the proper assessment of systemic risk.

Ms. Gackenbach said that the Government Accountability Office (GAO) recently issued a progress report on implementation of Dodd-Frank. She said that 236 provisions of Dodd-Frank require federal rulemaking, and that many of these necessitate cooperation between multiple agencies. She reported that at this time less than half of the Dodd-Frank mandates have had rules finalized. She stated that 23 percent of the required rules are still in the proposal stage and nearly a quarter have yet to be addressed by federal regulators.

PROPERTY-CASUALTY INSURERS' PERSPECTIVE

Dave Snyder of the Property Casualty Insurers Association of America (PCI) characterized federal financial regulatory proposals to be the result of political processes rather than shortcomings of the state regulatory system. He said that in 2012 the International Association of Insurance Supervisors (IAIS) published the Global Insurance Market Report (GIMAR). He said that GIMAR concluded that both the reinsurance and primary insurance sectors were stronger, better capitalized, and more competitive than they were before the 2008 financial crisis. He said that the report's conclusions call for state legislators and regulators to be more engaged in defending the state regulatory system when unnecessary changes are proposed by federal or international bodies.

Mr. Snyder said that the European Union (EU) is promoting a top-down regulatory approach centered on group supervision. He said that this approach is embedded in the IAIS Insurance Core Principles (ICPs), the Financial Services Assessment Program (FSAP), and the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). He said that one domestic response to group supervision has come from the National Association of Insurance Commissioners (NAIC) in the form of the Solvency Modernization Initiative (SMI). He urged state legislators to adopt SMI recommendations as a means of improving state regulation. He said that embracing SMI reforms also protects the state-based system by addressing international criticism.

Stef Zielezienski of the American Insurance Association (AIA) commented that the push for regulation following the financial crisis has resulted in a blurring of the line between group supervision and systemic risk regulation. He said, however, that regulators have developed a strong metric for screening out companies that do not fit the SIFI profile. He said that he was confident that the vast majority of property-casualty insurance companies would be screened out of the SIFI process.

Mr. Zielezienski said that he was less confident about ComFrame or the IAIS global systemically important financial institution (G-SIFI) designation. He said that the G-SIFI assessment process is still in development, yet IAIS has already released policy measures that are supposed to coincide with G-SIFI designations. He said that ComFrame adds new layers of regulation while failing to properly distinguish between international insurance groups and systemically important businesses. He commented that group supervision should be focused on improving transparency and not on creating new layers of regulation.

ACTUARIAL PERSPECTIVE

Nancy Bennett of the American Academy of Actuaries (AAA) said that the impetus for SMI stems from the financial crisis, international developments, and concern that the current solvency framework is outdated. She said that the focus on capital requirements in SMI has created an incentive to finalize certain regulatory changes, such as implementation of risk-focused examinations, principles-based reserving, and the own-risk solvency assessment (ORSA). Ms. Bennett expressed her belief that SMI will strengthen state-based regulation. She said that SMI will result in a greater emphasis on risk-management practices in lieu of one-size-fits-all regulation.

Maurice Perkins of the American Council of Life Insurers (ACLI) said that the life insurance industry is primarily focused on the implementation of capital standards under Basel III, particularly as they relate to insurer-owned bank or thrift holding companies. He said that the greatest obstacle for insurers is that the Federal Reserve is inherently bank-centric. He said that the life insurance industry has received little feedback from the Federal Reserve in direct dialogue, but that the industry has found support on Capitol Hill. Mr. Perkins said that two other important developments for life insurers are the systemically important financial institution (SIFI) designation process at FSOC and federal tax reform. He said that he does not believe that Congress will specifically target the life insurance industry in tax reform proposals, but he said that the industry is sometimes subjected to bank-centric rules.

MUTUAL INSURERS' PERSPECTIVE

Neil Alldredge of the National Association of Mutual Insurance Companies (NAMIC) said that the insurance industry and the existing regulatory system had fared well in the financial crisis. He said that proposals for new regulatory schemes, such as ORSA, represent a forward-looking approach to regulation. He commented that NAIC will become more integrated into the regulatory system due to proposed regulatory changes. He noted that this development requires the NAIC to be more accountable and more transparent to state legislators.

CONSUMER PERSPECTIVE

Birny Birnbaum of the Center for Economic Justice disagreed with some of the panel members on the notion that the insurance industry had successfully weathered the financial crisis. He noted that the private mortgage and bond insurance industries essentially dissolved during the crisis, and their problems rippled through the financial industry. He argued that the question of international pressure on regulation is separate from the issue of improvement needed in the state system.

Mr. Birnbaum said that if state legislators want to maintain the state system and become more involved in regulatory reform then they should stop “ceding authority” to the federal government. He pointed out that state legislators have not required that property insurers cover catastrophe, flood, terrorism or crop insurance. He said that if states mandated property insurance coverage for all events then they would not have to worry about federal regulators stepping in after a major event. He commented that legislators should first define their vision of a state-based regulatory system before worrying about federal regulations.

FURTHER DISCUSSION

In discussing the role of FIO in regulation, Mr. Perkins said that among some members of Congress there is still concern about “mission creep.” Mr. Snyder contended that the best defense against mission creep by FIO is for both NCOIL and NAIC to defend the state-based system while remaining flexible on systemic reform. Mr. Zielezienski noted that FIO can be beneficial to state regulators in terms of data collection and the representation of the U.S. internationally.

Rep. Keiser and Ms. Bennett, discussing the involvement of states in financial regulation, agreed that there is a need for the state regulatory process to evolve. Ms. Bennett commented that some of the new tools proposed by federal and international agencies will allow state regulators to perform their jobs better. Rep. Keiser noted that NAIC has taken the initiative and revised many regulations without prodding from federal or international bodies.

Responding to a question from Rep. Botzow on the results of financial reform efforts, Mr. Aldredge, Mr. Zielezienski, and Mr. Snyder concurred that in addition to new or modified rules, regulators should be looking for processes that can be discarded.

ADJOURNMENT
There being no other business, the Committee adjourned at 3:15 p.m.