

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
PHILADELPHIA, PA
JULY 11, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at the Philadelphia Marriott Downtown in Philadelphia, Pennsylvania, on Friday July 12, 2013, at 9:00 a.m.

Sen. Carroll Leavell of New Mexico, acting chair of the Committee, presided.

Other members of the Committee present were:

Sen. Travis Holdman, IN	Rep. Bill Botzow, VT
Rep. Charles Curtiss, TN	Rep. Kathie Keenan, VT

Other legislators present were:

Sen. Rosalyn Baker, HI	Rep. Jeffery Roy, MA
Rep. Angus McKelvey, HI	Rep. Keith English, MO
Sen. Greg Walker, IN	Rep. Don Gosen, MO
Sen. Laura Kelly, KS	Sen. Jerry Klein, ND
Rep. Sharon Treat, ME	Rep. Brian Kennedy, RI
Sen. Delores Kelley, MD	Rep. Stephen McManus, TN

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Jennifer Webb, Nolan Associates, NCOIL Director of Legislative Affairs – DC
Eric Ewing, Nolan Associates, NCOIL Director of Legislative Affairs

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its March 8, 2013, meeting in Washington, D.C.

COMFRAME DEVELOPMENTS

Mr. Ewing explained that NCOIL had prepared a handout on the IAIS Common Framework for the Supervision of Internationally Active Groups (ComFrame) for legislators identifying key information on ComFrame structure and development.

Mark Sagat of the National Association of Insurance Commissioners (NAIC) said the aim of ComFrame is to assist supervisors in performing more effective group wide supervision of internationally active insurance groups (IAIGs), to foster greater cooperation among supervisors across the world, and to foster a convergence of supervisory approaches. He noted that ComFrame must be a dynamic and flexible framework, given the differences between members of the International Association of Insurance Supervisors (IAIS). He said that while the NAIC supports the original goals of ComFrame, the NAIC recently voiced concern to Congress that ComFrame may be overshooting its original objectives.

Mr. Sagat said that while the NAIC continues to work with IAIS on ComFrame, state regulators remain wary of mission creep. He said a one-size fits all approach that could impose new burdens on consumers with little, if any, benefit. He noted that the NAIC is working to make sure that draft ComFrame standards are compatible with the current U.S. state-based system for regulation. He said that the NAIC is concerned that recent

discussion on capital requirements could lead to a bank-centric approach to insurance capital requirements that is not appropriate for the industry.

Dave Snyder of the Property and Casualty Insurers Association of America (PCI) thanked NCOIL and the committee members for holding the session, stating that to fully understand insurance issues today one must look at international developments and said that such developments are infrequently discussed. He noted that the notion behind ComFrame is that large IAIGs require some additional level of regulation, even though there has been no proof this additional regulation creates any benefit. He said that ComFrame would place requirements for solvency, market conduct, and corporate governance on large IAIGs and that these areas were already adequately addressed by U.S. regulation.

Mr. Snyder stated that the definition of an IAIG under ComFrame would include a number of large U.S.-based companies that are currently creating jobs in the U.S. as a result of their ability to compete internationally. He said that ComFrame would impose standards on these U.S.-based IAIGs that are higher than the standards imposed on their international competitors. He said these higher standards would place U.S.-based IAIGs at a competitive disadvantage.

Mr. Snyder said that PCI supports the notion that regulators should be able to gain and share information about companies so there are no information gaps, but the reality is that ComFrame goes too far. He said that ComFrame is reaching a critical stage. He said the last consultation document will be finalized by this fall, and that following a field testing phase full implementation will occur in 2018. He noted that this may seem like a long timeframe, but critically important decisions affecting major U.S.-based companies are currently ongoing.

Doug Barnert of Barnert Associates urged NCOIL to look further into ComFrame and other international issues. He suggested holding a longer informational session and exploring options for getting more information to NCOIL members because ComFrame developments are at a critical juncture. He said he believed the NAIC's recent testimony on international issues was a good example of what would be useful in the states.

Mr. Barnert stated that the international accounting standard for insurance contracts has come out in what some are saying is the final exposure draft. He said that this is the last chance to get comments in on the fair value approach which some think is really underlying the insurance accounting proposals. He said that once the Financial Accounting Standards Board (FASB) adopts a standard, the NAIC is required to review it to see if it should also be used in the U.S. Mr. Barnert said that there is a lot of discussion going on between relevant agencies currently. He stated that he would like to see this issue taken up at the November meeting to see what all involved parties are saying about the accounting proposal and ComFrame as it starts to move into its adoption phase and how it might affect the states.

PRINCIPLES OF GROUP SUPERVISION

Mr. Sagat said that as a result of the financial crisis regulators worldwide began reexamining and revising solvency oversight systems to ensure that they were keeping up with insurance and financial marketplace innovations. He said that the NAIC, as part of its standard operating procedure of working on a continuing improvement basis, launched the Solvency Modernization Initiative (SMI) in 2008 through 2009. He said that SMI focuses on five areas: capital requirements, governance and risk management, group supervision, statutory accounting and financial reporting, and reinsurance.

Mr. Sagat said that the group supervision topic can be broken down into five discussion areas: the goals and scope of group supervision, the important role of supervisory colleges, the coordinating role and responsibilities of the lead state supervisor, the Insurance Holding Company System Regulatory Act, and the Own Risk and Solvency Assessment (ORSA). He said that the NAIC Group Solvency Issues Working Group is currently working on a project where they will document the U.S. approach to group supervision.

Mr. Sagat stressed the importance of participating in supervisory colleges to help lead efforts in regulating large international insurance groups. He said that in terms of lead state roles and responsibilities, group supervision requires strong coordination between state, federal, and international regulators regarding IAIGs. He said that the U.S. view is that coordination and communication is the primary role of the lead supervisor.

Mr. Sagat said that following the financial crisis, the Insurance Holding Company System Regulatory Act was amended and 21 states have adopted those amendments. He said it is critical that all states adopt the amendments in the near future. He noted that the NAIC Insurance Holding Company System Regulatory Act has been described as a “windows and walls approach” meaning that regulators have windows to scrutinize group activity and assess its ability to play its claims, and walls to protect the capital of the insurer by requiring insurance commissioner approval of materially related party transactions.

Mr. Sagat stated that ORSA is an internal assessment of the risks associated with an insurer’s current business plan and the sufficiency of capital resources to support those risks under normal and severe stress scenarios. He said that ORSA was generally supported by the industry because it allows the U.S. to converge its approach with the international approach in a manner that is appropriate for the U.S. system. He said that ORSA has been adopted by Iowa, Rhode Island, and Vermont so far.

Mr. Snyder said that the issue of group supervision has largely been placed on the agenda because of issues in Europe, mainly Solvency II. He said that Solvency II looks at the industry from the top down, whereas in the U.S. we look at each of the business’ subsidiaries and regulate from the bottom up.

Mr. Snyder stated that the majority of the U.S. industry supports the NAIC changes regarding standardization, but PCI continues to believe that the U.S. standards have served the industry and consumers well. He said that the U.S. should not adopt the European system wholesale or the European system as it is imbedded in IAIS insurance core principles and ComFrame. He noted that the U.S. will be up for review with the International Monetary Fund and the World Bank in 2014 for its compliance with international standards.

Mr. Barnert said that the European Occupational and Pension Authority (EOPA) has begun adopting Solvency II even though Solvency II has not yet been adopted by the European Parliament. He said that EOPA believes it is under its broad authority to do so, but that it may affect some U.S. companies if they have to begin implementing a law that has yet to be enacted. He noted this is particularly important because there is resistance in the European Parliament to certain parts of Solvency II such that these parts may never be enacted into law.

U.S. TRADE AGREEMENT NEGOTIATIONS

Ms. Thorson said that in the past few years NCOIL has started looking at U.S. trade agreements and the impact the agreements may have on insurance and state insurance regulations. She said that NCOIL passed a resolution that expressed concern about the lack of state legislative representation among those who can weigh in on trade agreement efforts

in 2012. She said that the Intergovernmental Policy Advisory Committee (IPAC) is the body that weighs in on these agreements. She said that following the 2012 summer meeting three NCOIL legislators applied to be on IPAC and no decision has been made as to the appointments. She said that NCOIL will continue to follow up regarding the appointments.

Rep. Treat said that she is one of two state legislators on IPAC and that she hopes NCOIL will continue to push hard on this issue as she could use some help. She said that there are two major negotiations currently ongoing: the trans-pacific partnership that has been going on for several years and the European Union negotiations that just started in summer 2013. She said that it took several years for her appointment to IPAC to go through.

Mr. Snyder said that PCI is fully supportive of state legislators playing a larger role in IPAC. He said that, regarding the recently started European Union negotiations, it is important under Solvency II that the U.S. regulatory system be deemed an equivalent system so that U.S. companies will be treated equally with European companies when operating in Europe.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:00 a.m.