

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
FINANCIAL SERVICES & INVESTMENT PRODUCTS COMMITTEE  
CHARLESTON, SOUTH CAROLINA  
FEBRUARY 28, 2015  
MINUTES

The National Conference of Insurance Legislators (NCOIL) Financial Services & Investment Products Committee met at the Mills House Wyndham Grand Hotel, in Charleston, South Carolina, on Saturday, February 28, 2015, at 12:45 p.m.

Rep. Bob Hackett of Ohio, chair of the Committee, presided.

Other members of the Committee present were:

Rep. George Keiser, ND	Rep. Brian Kennedy, RI
Assem. Will Barclay, NY	Sen. Robert Hayes, Jr., SC
Assem. Kevin Cahill, NY	

Other legislators present were:

Assem. Ken Cooley, CA	Sen. James Seward, NY
Rep. Joseph Fischer, KY	Rep. Edna Brown, OH
Rep. Ken Goike, MI	Rep. Barbara Sears, OH

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director  
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director  
Molly Dillman, Nolan Associates, NCOIL Director of Legislative Affairs  
Andrew Williamson, Nolan Associates, NCOIL Director of Legislative Affairs

#### MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its November 22, meeting in San Francisco, California.

#### CYBER-SECURITY AND CYBER-INSURANCE PROPOSALS

Julie Gackebach of Confrere Strategies reported that four pieces of cyber-security legislation passed through Congress at the end of 2014. She said National Institute for Standards and Technology (NIST) voluntary standards were codified and that while still voluntary, the standards had been given more substance. She said Congress had passed legislation to facilitate information sharing between federal agencies to expand research and development capabilities of agencies and to increase hiring of personnel with cyber-issue expertise.

Ms. Gackebach said the Administration made cyber-security a priority and has been working with Congress on initiatives including data breach reporting, information sharing and privacy in regards to data collection and use. She said the Administration has standardized data breach reporting to facilitate reporting at a quicker pace and has proposed preempting federal law and requiring immediate notification that sensitive personal information is breached. Ms. Gackebach said because information crosses state lines, Congress has indicated a level of bipartisan support for this initiative.

Ms. Gackenbach said an Executive Order issued in February was designed to facilitate and provide liability protection for companies that share information, which is critical to building a government database. She said the President is promoting information sharing and this initiative is expected to lead to legislation that is more comprehensive.

Ms. Gackenbach noted that the privacy initiative based on the President's 2012 Consumer Bill of Rights is the initiative with the least amount of bipartisan support. She said the Bill of Rights was designed to harmonize the protection, use, and collection of data across all lines of business. She noted that the business industry has widely criticized this initiative. She said it would dictate how businesses collect information and how information is stored and would allow customers to correct their data. She noted the initiative includes provisions that require companies to make an assessment as to whether the information they collect is used in a manner that would create a negative impact on any particular group.

Ms. Gackenbach said that federal agencies are moving forward initiatives on their regulated industries. She reported the Securities and Exchange Commission (SEC) has been working closely with publicly traded companies on new disclosures and audits. She said a number of financially-regulated entities, broker and financial institutions, are undergoing audits to see what their cyber-security protections are. She said the Office of the Comptroller of the Currency (OCC) has issued very detailed guidance on how financial institutions should be treating their own secure data, as well as the secure data of third parties.

Ms. Gackenbach said the Department of Homeland Security (DHS) continues to be actively engaged in conversations with the insurance industry, as has Treasury, through the Federal Insurance Office (FIO). Ms. Gackenbach said that NCOIL and the NAIC should play a lead role in determining what information insurers might submit to a database and how they submit it.

In response to a question from Senator Seward regarding a role for state legislatures, Ms. Gackenbach said states should make sure there is a good relationship and information exchange between state and federal governments. She also suggested states begin to look at a best practices framework, including OCC best practices.

#### CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Candace Thorson, Nolan Associates, reported that in December of 2014 NCOIL had sent a letter to Director Richard Cordray of the CFPB, addressing NCOIL concerns that CFPB might be intruding on state insurance regulation and to convey the NCOIL commitment to increase dialogue with CFPB. Ms. Thorson noted that CFPB staff had responded and said that CFPB is committed to working with state legislators but had yet to initiate further dialogue. She also said an invite was sent to Director Cordray in January to deliver the keynote speech at the NCOIL Spring Meeting and NCOIL received no response.

#### CONGRESSIONAL EFFORTS RELATED TO DODD-FRANK

Ms. Gackenbach reported that Congress had passed legislation to clarify insurance capital standards. She said there was insistence by the Federal Reserve that it did not have the flexibility, under the Dodd-Frank "Collin's Amendment," to use insurance-based standards, as opposed to bank-centered standards, for certain companies. She said the legislation passed by Congress was designed to clarify that the Federal Reserve could apply tailored capital standards for insurers and not Basel bank-centered standards. She said that despite this, there remains a

reluctance to comply on the part of the Federal Reserve, as it feels that the new legislation did not do enough to clarify the amendment. Ms. Gackebach said members of Congress have kept constant communication with the Fed to ensure the law is being followed.

Ms. Gackebach said that out of the 25 bills introduced to amend Dodd Frank, the House had moved only HR37. She noted the bulk of provisions in HR37 made it easier for small and community banks to avoid the cost of Dodd-Frank compliance because FCC reporting and registration sizes were changed. Ms. Gackebach said while this bill passed the House, it is expected to face opposition by the Administration, as well as on the Senate floor.

Ms. Gackebach said Treasury had proposed new record-keeping requirements for qualified financial contracts. She noted that the Federal Communications Commission (FCC) adopted new rules requiring security-based swap data repositories to register. Ms. Gackebach reported the Financial Stability Oversight Council (FSOC) has agreed to provide more information about processing criteria by which it designates non-bank Systemically Important Financial Institutions (SIFIs) in response to criticism over lack of transparency.

Ms. Gackebach said Department of Labor (DOL) fiduciary standards, which would cover both individual retirement account and individual retirement annuities, are expected soon. She said there is concern that SEC and DOL could develop two conflicting standards.

#### PENSION DE-RISKING

Kate Kiernan of the American Council of Life Insurers (ACLI) reported that NCOIL had approved the resolution on *Best Practices for Pension De-Risking through Private Annuitization* at the NCOIL Annual Meeting in San Francisco. She said legislation based on this resolution has been introduced in Connecticut, Massachusetts, and New York and that ACLI will continue to monitor how the legislation evolves.

Ms. Kiernan also noted that the U.S. Government Accountability Office had just released a report on private pensions titled "*Participants Need Better Information When Offered Lump Sums to Replace Lifetime Benefits*".

#### ADJOURNMENT

There being no further business, the Committee adjourned at 12:45 p.m.