NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE AND FINANCIAL PLANNING COMMITTEE
CHARLESTON, SOUTH CAROLINA
FEBRUARY 28, 2015
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance and Financial Planning Committee met at the Mills House Wyndham Grand Hotel in Charleston, South Carolina, on Saturday, February 28, 2015, at 8:00 a.m.

Rep. George Keiser of North Dakota, Acting Chair of the Committee, presided.

Other members of the Committee present were:
Sen. Travis Holdman, IN
Rep. Ron Crimm, KY
Rep. Joseph Fischer, KY
Rep. Ken Goike, MI
Sen. Neil Breslin, NY
Sen. James Seward, NY
Sen. Kevin Bacon, OH
Sen. Edna Brown, OH
Rep. Bob Hackett, OH
Rep. Brian Kennedy, RI
Sen. Robert Hayes, SC
Rep. Warren Kitzmiller, VT

Other legislators present were:
Assem. Ken Cooley, CA
Sen. William Haine, IL
Sen. Dan "Blade" Morrish, LA
Assem. William Barclay, NY
Sen. Ronnie Cromer, SC

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 21, 2014, meeting in San Francisco, California.

UNCLAIMED BENEFITS DEVELOPMENTS IN LIGHT OF NCOIL MODEL
Kate Kiernan of the American Council of Life Insurers (ACLI) reported on developments regarding the NCOIL *Unclaimed Life Insurance Benefits Model Act*. She stated that since update of the NCOIL model in November of 2014, legislation has been considered in a number of states, including Arkansas, Idaho, Illinois, Oklahoma, Massachusetts, Pennsylvania, Utah, and Virginia. Ms. Kiernan reported that some current legislation regarding the Death Master File (DMF) applies prospectively and omits language requiring insurers to establish procedures to accommodate "fuzzy matches." She reported that 15 states have already adopted legislation based on the NCOIL model.

Ms. Kiernan noted that there is pending litigation relating to whether or not insurers have an affirmative duty to search the DMF, whether the laws apply retroactively, and reasonable limits. She also said the ACLI is currently monitoring Uniform Law Commission activity relating to unclaimed benefits.

In response to a question from Rep. Keiser, Ms. Kiernan said there are concerns regarding federal restrictions on access to the Social Security Death Master File (DMF) and regarding states that are providing less information to the DMF.

Commissioner Ralph Hudgens (GA), speaking on behalf of the NAIC, reported that a Life Insurance and Annuities Claims Settlement Practice (D) Task Force is investigating and coordinating with lead settlement states on current and past use of the Social Security Death Master File (DMF) by annuity companies and life insurers.

Commissioner Hudgens explained that NAIC multi-state examinations are intended to determine any asymmetrical or inappropriate use of the DMF and to identify necessary business reforms. He reported that to date the Task Force has concluded multi-state examinations with 17 of the largest life insurance companies representing 64.4 percent of the national market. He said that all companies were found to have used the DMF for annuities and those that used the DMF asymmetrically have now agreed to use information for life beneficiaries if a claim has not been filed.

Commissioner Hudgens reported that the Task Force inquiries are not based on a requirement that insurers explained that only when a company has accessed the DMF and use of the information to stop annuity payments do regulators then seek to require use regarding life insurance benefits.

PRINCIPLE-BASED RESERVING (PBR)

Commissioner Hudgens then provided an update, on behalf of the NAIC, on PBR, noting that PBR was first proposed in 2009 when NAIC realized that products were changing and would continue to change. He said PBR would replace a current formulaic reserving method for life insurers with one that more accurately reflects the complex products now on the market. He noted that PBR would minimize incentives for companies to reduce reserves through means like captives. He noted that PBR implementation includes two NAIC model law changes and updates to an NAIC evaluation manual. He said that NAIC adopted a revised standard evaluation model in 2009 and a revised standard non-forfeiture model and evaluation manual in 2012.

Commissioner Hudgens reported that PBR would become operative once a supermajority of states (42 states or 75 percent of total U.S. life premium) adopted the revised Standard Valuation Law. He said that, to date, 20 states have enacted PBR and that legislation is being considered in 18 other states. He noted that if PBR legislation is passed in all 18 of these states, the threshold would be 73.5 percent, still under the 75 percent needed. He explained that legislative support is necessary to obtain this supermajority.

Kate Kiernan noted that ACLI has slightly different numbers in regard to states enacting and considering legislation on PBR. She said that according to ACLI 13 states are currently active, with pending legislation in 12 others. She also said that the NAIC PBR Implementation Task Force is considering and debating exemptions for small companies.

In response to a question from Rep. Keiser, Gov. Ralph Hodges of the National Association of Life Companies (NALC) stated that NALC has not yet taken a position on the matter but said the concern is whether small companies will be required to participate in unnecessary procedures that are best suited for larger life companies.

CAPTIVE INSURANCE REGULATION

Georgia Insurance Commissioner Hudgens (GA), on behalf of the NAIC, provided background information on captive insurance, explaining that captives provide self-insurance to parent corporations and to non-profit organizations. He said that captive requirements vary widely from state to state.

Commissioner Hudgens stated that captives can keep their financial statements and other information confidential from state regulators, whereas traditional insurers cannot. He noted the two entities also have differences in accounting practices. He explained that traditional companies are required to use statutory accounting principles (SAP), which are more conservative than the generally accepted accounting principles (GAAP) that captives can use. Commissioner Hudgens commented that this creates an uneven playing field between the two.

Commissioner Hudgens reported that most recently, traditional insurers have created captives that reinsure policies sold by the traditional insurer. He noted that this permits traditional insurers to operate as captives and may allow them to circumvent some of the financial regulations and accounting standards applicable to traditional insurers.

INDEXED ANNUITY SUITABILITY

Paul Richmond of the Insured Retirement Institute (IRI) provided background information on fixed annuities. He stated that they are designed for consumers who want to participate in the benefits of a market-linked product that also provides risk protection. He said innovation is ongoing in the market and at least four major insurers are currently offering Security and Exchange Commission (SEC)-registered fixed annuity products. He explained that the products offer consumer protections afforded by federal securities laws because they are registered as such.

Mr. Richmond reported on trends in the annuities market. He said there has been a significant increase in annuity sales in recent years, with a 33 percent rise in 2014 alone. He also stated that indexed annuity sales currently account for more than half of annuity sales in the U.S. market. He said that IRI expected to see further sales growth as indexed annuities continue to be offered as an alternative to other fixed indexed investments.

Mr. Richmond also observed that fixed markets are better regulated today than at any time in the past. He said that the industry, NAIC, and individual state insurance departments have all taken extensive steps to ensure these products are sold by people who understand them and to customers who meet the suitability requirements. He said that the NAIC model regulation for annuity sales was prepared with help from the IRI and ACLI, among others. He said that to date 13 states have either adopted or proposed new buyer guides for annuities.

Kate Kiernan reported that there have been a limited number of complaints related to indexed annuity products. She said that only 89 justified complaints were found for 2014 alone. She stated that for 2013, there were five complaints reported per 10,000 contracts. She said there are approximately in excess of one million indexed annuity products on the U.S. market.

Commissioner Hudgens stated that Georgia did pass the NAIC suitability law for annuities, and he reported knowing of only one complaint against an agent.

After Ms. Kiernan concluded her presentation, Rep. Keiser observed that her remarks had been focused primarily on complaints with regard to annuities rather than the suitability of annuities as a product. He then asked what specific factors were central to the issue of suitability.

Commissioner Hudgens stated that suitability would include factors such as age and income level. As to the question of age, Ms. Kiernan stated that since annuities were a long-term investment, a prospective purchaser would need to have a projected life span of at least ten years.

Rep. Keiser then inquired whether there were criteria related to income level that might make annuities more suitable than other products. Ms. Kiernan responded that specific income levels were not necessarily critical as many reasons could exist for a lower income individual to purchase an annuity. Rep. Keiser noted that a young person with low income and a large family might find term life insurance a more suitable product.

Ms. Kiernan indicated that tax treatment could be one reason for selecting an annuity in some circumstances. Rep. Keiser responded that since the annuity premium is paid post-tax, a 401(k) plan might provide a better option. Ms. Kiernan noted that an annuity can in some cases be rolled over into a 401(k) plan, so the two products might not necessarily be mutually exclusive.

OTHER BUSINESS

Doug Barnert of Barnert Global spoke to proposed international standards regarding life insurance and other fiscal matters. He reported that the Asia-Pacific Economic Corporation (APEC), which consists of 21 member economies, was originally created to address issues of free trade. However, he noted, in recent years APEC has increasingly addressed a variety of fiscal issues. He said that APEC has created various financial forums and recently, with the help of Makoto Okubo of Nippon Life, it has helped to create the Asian-Pacific Financial Forum (APFF). He stated that the purpose of this forum is to address questions regarding fiscal issues and how such issues affect trade, investment opportunities, and the impact on their economic growth.

Makoto Okubo summarized an interim report that he had made to APEC Finance Ministers, noting that it was intended to promote long-term business and investment by insurance companies. He said that the report had generated considerable APEC comments to the International Association of Insurance Supervisors (IAIS).

Mr. Okubo noted that what should be important to this Committee is the need to reflect the long-term nature of insurance. He stated that the IAIS paper had argued for a market adjustment approach that is transparent and verified by supervisors. Mr. Okubo emphasized that APEC had challenged the market adjusted approach and fair value accounting methods because they failed to provide any indication of what might be in the long-term best interests of insurance companies.

ADJOURNMENT
There being no further business, the Committee adjourned at 9:00 a.m.

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