

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE/EU-US DIALOGUE
SAN DIEGO, CALIFORNIA
NOVEMBER 18, 2005
DRAFT MINUTES

The International Insurance Issues Committee/EU-US Dialogue of the National Conference of Insurance Legislators (NCOIL) met at the Hilton San Diego Resort in San Diego, California, on November 18, 2005, from 9:30 to 10:30 a.m.

Assem. Nancy Calhoun of New York, vice chair of the Committee, presided.

Other members of the Committee present were:

Sen. Steven Geller, FL
Rep. Terry Parke, IL
Assem. Ivan Lafayette, NY
Rep. Frank Wald, ND
Rep. Robert Godshall, PA

Other legislators present were:

Rep. Michael Ripley, IN
Rep. Matthew Whitestone, IN
Rep. Nile Dillmore, KS
Rep. Chris Steineger, KS
Sen. Ruth Teichman, KS
Rep. Ron Crimm, KY
Rep. Dennis Horlander, KY
Rep. Dennis Keene, KY
Rep. Barb Farrah, MI
Rep. David Law, MI
Rep. Don Flanders, NH
Sen. Neil Breslin, NY
Sen. William J. Larkin, Jr., NY
Rep. George Keiser, ND
Rep. Ron Peterson, OK
Rep. Brian Kennedy, RI
Rep. Craig Eiland, TX
Rep. Gene Seaman, TX
Rep. Kathleen Keenan, VT
Rep. Virginia Milky, VT

Others present were:

Susan Nolan, Nolan Associates, NCOIL Executive Director

MINUTES

Upon a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 8, 2005, meeting in Newport, Rhode Island.

HURRICANE KATRINA'S EFFECT ON GLOBAL INSURANCE/ REINSURANCE MARKETS

Frank Nutter of the Reinsurance Association of America (RAA) reported that estimates for pre-tax probable losses from the three major hurricanes of 2005 (Katrina, Wilma, and Rita) totaled \$70 to \$85 billion. He said these losses likely would be distributed as follows: half by U.S. insurers, just under 10 percent by U.S. reinsurers, 21 percent by Bermuda insurers and reinsurers, 10 percent by European reinsurers, and five to six percent by Lloyd's. Overall, Mr. Nutter indicated that approximately 50 percent of the total losses would fall to reinsurers, which, by way of comparison to the 2004 hurricane season, represented an increase from about 33 percent. Mr. Nutter noted that due to increased demand for disaster reinsurance, the capital markets had capitalized new start-up entities.

Rep. Eiland asked whether Bermuda insurers and reinsurers were lumped together in the 21 percent figure. Mr. Nutter said that he did not have an exact breakdown but that most of the percentage would indicate reinsurance capacity. Rep. Eiland then asked Mr. Nutter to define "capital markets." Mr. Nutter indicated this meant Wall Street investors and hedge funds. Rep. Eiland inquired about where reinsurance costs might increase due to these catastrophes, using an example of reinsurance for automobiles in Colorado. Mr. Nutter indicated such a scenario would be unlikely because primary insurers do not normally purchase reinsurance for these types of personal lines exposures.

Sen. Geller asked whether reinsurers were reinsured. Mr. Nutter said this occurred via retrocessional coverage. Sen. Geller then asked what rate of return investors in the reinsurance industry expected. Mr. Nutter suggested a rate of 12 to 15 percent, applicable to the insurance market generally, though the desired rate of return in the catastrophe area likely would be higher.

Assem. Calhoun asked whether there have been any reinsurance solvency issues. Mr. Nutter said there had not.

EU/US ISSUES OF COMMON CONCERN

Rep. Eiland delivered a report on NCOIL's recent visit to the European Union (EU), in which he, Rep. Wald, Rep. Parke, and Ms. Nolan participated. He discussed their visit to Brussels and a meeting that NCOIL had with four members of the European Parliament. Rep. Eiland overviewed the process for enacting insurance statutes in the EU, informed members of an NCOIL visit to Lloyds of London, and outlined Lloyd's regulatory and financial framework. He said that NCOIL also met with members of the British Parliament and with David Matcham of the International Underwriting Association (IUA). He stressed the importance of maintaining these contacts.

Rep. Wald emphasized the educational experiences gained from the trip.

Rep. Parke noted the importance of developing these relationships because legislators gain key insights from their visits overseas. He said many of the problems confronting the U.S. and the EU are similar, and said he felt the EU had gained a better understanding of NCOIL's role in this country's insurance regulatory business. He complimented the hospitality of the EU hosts.

Ms. Nolan delivered a report on her visit during this trip to Vienna and a meeting of the International Association of Insurance Supervisors (IAIS). The meeting addressed solvency and market conduct issues, she said. She further summarized the purposes of the IAIS and its governance. Ms. Nolan stressed that her goal in attending the meeting was to let its members know of NCOIL.

Sen. Larkin commented on an earlier trip he had taken to Europe as part of NCOIL. He suggested contacting the trade representative prior to taking another trip. He complimented the talents of those with whom he had met.

ISSUES CONCERNING CONTRACT CERTAINTY

David Matcham of the IUA described the role of his organization. He told Committee members that "contract certainty" was a substantive regulatory issue in the United Kingdom. He discussed concerns by UK regulators (the Financial Services Authority – FSA) regarding the uncertainty of a contract's effective date, despite the fact that the contract's terms are not written down until after the contract is effective. He explained in some detail the process by which coverage is bound in the UK, via the use of "slips." He told Committee members that the FSA had indicated to the industry that it needed to stop the "deal now, detail later" culture. He indicated that the FSA would address this issue with the NAIC during its March 2006 meeting. Mr. Matcham said that new slips are being used in the UK to help address the issue, which he said remove items of subjectivity and make contract terms clear.

Rep. Eiland explained why this was an issue of concern to businesses in the U.S. He said that many relied on EU reinsurance contracts.

INTERNATIONAL ACCOUNTING STANDARDS

Maine Insurance Superintendent and NAIC President-Elect Alessandro Iuppa overviewed the NAIC's perspective on international accounting standards, noting that the NAIC had been actively following developments and attending meetings of the International Accounting Standards Board (IASB). Superintendent Iuppa drew particular attention to the converging efforts of the IASB and the U.S. Financial Accounting Standards Board (FASB). He referenced the "Norwalk Agreement," an effort to reconcile U.S. and EU accounting standards. He also noted that the IAIS was involved in IASB efforts. In response to a question from Assem. Calhoun, Superintendent Iuppa further detailed the issues involved in realizing international accounting standards.

Ed Stephenson of Barnert Global Ltd. addressed the Committee on behalf of the Group of North America Insurers Enterprises (GNAIE). He said different accounting models were under

discussion at the IASB and that the effort had resulted in two different models: a fair value-based model and a deferred premium model. He indicated that it was the position of GNAIE that elements of both models were more preferable than either model on a stand-alone basis. He noted that many in the U.S. insurance industry were concerned about decisions being made by the IASB regarding insurance contracts prior to a resolution of accounting issues. Mr. Stephenson said his association was monitoring FASB activity with respect to its efforts to define insurance for the purpose of applying it to the accounting profession. He discussed the differences inherent in statutory accounting principles (solvency-oriented) versus international accounting standards (investor-oriented).

FINITE INSURANCE AND REINSURANCE ARRANGEMENTS

Superintendent Iuppa said the NAIC had modified its annual statement instructions to require property-casualty insurers to report contract terms and management objectives of any finite reinsurance agreement that effectively alters policyholder surplus by certain thresholds. He stressed his opinion that finite reinsurance was not inherently bad, but rather the issue was how use of such insurance was accounted for. He mentioned as an example an Australian insurer, HIH, whose secret side agreements led to its insolvency and delayed its liquidation for approximately three years.

REINSURANCE COLLATERAL

Superintendent Iuppa asked NCOIL to continue to defer action on its proposed *Approved List of Reinsurers Model Act*, currently being considered by the NCOIL Executive Committee, because the NAIC was formulating a white paper on the issue that he hoped would offer greater understanding of the issue. He anticipated that the white paper would be finalized in the summer of 2006.

Rep. Eiland said members of the EU Parliament are getting tired of what they perceive as inaction by U.S. legislators and regulators. He suggested the EU would use this issue in approaching Congress about federal regulation of insurance. Superintendent Iuppa responded that the NAIC was aware of this possibility and that regulators were working with their EU counterparts toward a resolution. He indicated that U.S. regulators do not view the matter as a trade issue but rather one of solvency regulation.

David Snyder of the American Insurance Association (AIA) expressed his association's continuing, serious concerns regarding the reinsurance collateral issue, noting that it was a significant matter for solvency.

ADJOURNMENT

There being no further business, the Committee adjourned at 10:45 a.m.