

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
HILTON HEAD, SOUTH CAROLINA
MARCH 4, 2005
DRAFT MINUTES

The National Conference of Insurance Legislators' (NCOIL) International Insurance Issues Committee met at the Hilton Oceanfront Resort, Hilton Head, South Carolina, on Friday, March 4, 2005, at 11:15 a.m.

Rep. Mark Young of Vermont presided over the Committee in the absence of Rep. Karen Carter of Louisiana, Committee Chair.

Other members of the Committee present were:

Rep. Terry Parke, IL
Assem. Nancy Calhoun, NY
Rep. Frank Wald, ND
Rep. Mark Young, VT

Other legislators present were:

Sen. Alan Sanborn, MI
Sen. Jerry Klein, ND
Rep. Craig Eiland, TX
Rep. Kathleen Keenan, VT
Rep. Michael Reese, VT

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Fran Liebich, NCOIL Director of Legislative Affairs & Education,
Health, Life, and Workers' Compensation Insurance

MINUTES

Upon a motion duly made and seconded, the Committee voted unanimously to approve, as submitted, draft minutes of its last meeting, held on November 19, 2004, in Duck Key, Florida.

IAIS/NAIC INTERNATIONAL ACTIVITY

Commissioner John Oxendine of Georgia said that the NAIC had developed a "core principle survey," which he said had been distributed internationally to gather information on the differences in insurance regulation between countries. He said that the tool would help identify emerging markets.

Commissioner Oxendine said that regulators had adopted a solvency framework, which he said would be a step toward mutual recognition among countries. He said that the NAIC had developed a "Roadmap for Cornerstones" that regulators would complete in May. He said that the cornerstones defined how solvency should be regulated.

Commissioner Oxendine said that NAIC leadership would support involving NCOIL in its international discussions. Ms. Nolan reported that NCOIL was in the process of becoming a member of the IAIS.

EU/US DIALOGUE

Commissioner Oxendine reported that the NAIC had met with members of the EU on February 24 in Frankfurt, Germany. He said that the dialogue included a discussion of the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS), which he said was charged with ensuring that consideration was given to matters regarding insurance in light of new EU directives. He said that Solvency II, an exercise aiming to redesign the solvency model for the industry, was discussed with regard to incorporating elements of risk-based capital (RBC). He said that incorporating elements of RBC was the first step toward mutual recognition and establishment of a global framework for insurance supervision.

Commissioner Oxendine said that there was a draft directive regarding reinsurance that would provide for a uniform insurance standard in Europe. He said that it was expected to be adopted by the Parliament and Council of the EU in June of 2005. He said that an agreement had been reached between France and Portugal to phase out rules regarding collateral requirements. He said, the agreement would go into effect once the Parliament adopted the draft regarding reinsurance.

Commissioner Oxendine said that the NAIC and EU would meet again during the June 2005 NAIC Meeting.

INTERNATIONAL ACCOUNTING STANDARDS

Commissioner Oxendine said that an International Association of Insurance Supervisors (IAIS) Subcommittee and the International Accounting Standards Board (IASB) had discussed international accounting standards. He said that an NAIC staff person had been appointed chair to the IASB.

Doug Barnert of Barnert Global Limited said that convergence had been established between IASB and the Financial Accounting Standards Board (FASB) of the U.S. He said that more attention was focused on international companies' accounting standards, with regard to how income should be treated and how comprehensive income should be reported, as well as measured. Mr. Barnert said IASB was taking a lead in investigating insurance contracts and financial instruments in order to report on performance. He said that it was a challenge to determine if insurance contracts that insurance companies and banks sold were actual insurance contracts or if they were financial instruments.

ISSUES RELATED TO NAFTA

Commissioner Jose Montemayor of Texas said that the NAIC had formed a tri-national NAFTA Working Group for insurance in response to a need to promote affordable insurance products and to understand such issues as reinsurance and underwriting risks in Canada and Mexico. He said that the working group included multi-country members of industry and regulatory organizations. He said the NAIC represented the U.S. at the working group. Commissioner Montemayor said that in

order to underwrite coverage, Canadian and U.S. insurers needed financial records and safety data of Mexican truckers from Mexican transportation officials. He said this data was necessary to satisfy requirements of a U.S. Department of Transportation (USDOT) permit called MCS 90. He said that an insurer needed to assess credit risk because the MCS 90 permit committed the insurer to covering items outside an insurance policy and to recovering payments from the insured. Commissioner Montemayor said that environmental clean-ups were a significant concern when assessing credit risk.

Commissioner Montemayor said that there was a MCS 90 requirement for one million dollar minimum liability coverage for ordinary cargo, and a five million dollar minimum liability for hazardous cargo. He said that the hazardous cargo list had grown over time and that MCS 90 gave no regard to quantity. For example, he said that a single gallon can of paint transported into the U.S. or Canada would require a five million dollar liability policy instead of the one million dollar cover. Commissioner Montemayor said that the NAFTA working group had sent a letter to the Secretary of Transportation asking for a review of the HazMat list and asking the Secretary to consider changing requirements on the free trade zones from “interstate” (controlled by the MCS 90 process) to “intrastate”(controlled by the various state transportation departments). He said this would make insurance more available and affordable.

Rep. Young asked if the tri-national working group needed assistance from NCOIL. Commissioner Montemayor said that the working group would be reaching out to the NCOIL International Insurance Issues Committee in Newport to support a resolution that would encourage the USDOT to review the MCS 90 requirements and the HazMat list.

David Snyder of the American Insurance Association (AIA) said that the AIA was part of the tri-national NAFTA Working Group. He said that U.S. and Mexico did not recognize insurance written on the other side of their respective borders.

Mr. Snyder said that he gave a presentation before the World Trade Organization (WTO) regarding societal benefits of insurance and basic necessities of the regulatory system. He said that the WTO was supportive of increasing the flow of U.S. services to overseas markets.

INTERNATIONAL LIFE SETTLEMENTS MARKET

Doug Head of the Viatical and Life Settlements Association of America said that the life settlements industry had attracted institutional capital from a variety of U.S. and foreign financial institutions. He said that there were tax advantages for institutions providing life settlements abroad.

ADJOURNMENT

Upon a motion duly made and seconded, the Committee adjourned at 12:15 a.m.