

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
NASHVILLE, TN
NOVEMBER 22, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at the Hilton in Nashville, Tennessee on Friday, November 22, 2013 at 11:15 a.m.

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

Other members of the Committee present were:

Rep. Greg Wren, AL	Sen. William Larkin, NY
Sen. Travis Holdman, IN	Rep. Craig Eiland, TX
Rep. Matt Lehmann, IN	Rep. Bill Botzow, VT
Rep. George Keiser, ND	Rep. Kathie Keenan, VT
Sen. David O'Connell, ND	

Other legislators present were:

Sen. Jason Rapert, AR	Sen. Jerry Klein, ND
Sen. Brian Bushweller, DE	Rep. Dan Kirby, OK
Rep. Peggy Mayfield, IN	Rep. Brian Kennedy, RI
Rep. Robert Damron, KY	Rep. Michael Gambrell, SC
Rep. Steven Riggs, KY	Sen. Phil Jensen, SD
Rep. Tom Leonard, MI	Sen. Curtis Bramble, UT
Rep. Pete Lund, MI	Sen. Stephen Urquhart, UT
Rep. Lisa Lyons, MI	Sen. Daniel Hall, WV
Rep. Joe Hoppe, MN	

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

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 12, 2013, meeting in Philadelphia, PA

FINANCIAL STABILITY BOARD (FSB) REPORT

Ms. Webb provided a summary of the insurance section of the FSB report. She stated that member jurisdictions of FSB undergo periodic peer reviews. She said FSB released the U.S. peer review on August 27, 2013. She stated that the report found that federal and state authorities have begun to address the insurance-related Financial Sector Assessment Program (FSAP) recommendations. She said that the report proposed that additional work is required in the areas of regulatory uniformity, group insurance supervision, solvency requirements, and governance and funding reforms. She said the report suggested that Congress consider migrating to a more federalized insurance regulatory system.

Commissioner Jim Donelon of Louisiana, NAIC President, said that NAIC considers international insurance regulation as one of the most vital issues facing the industry. He said that the FSB report recognized that the state-based system of insurance regulation is effective at protecting policyholders and ensuring the solvency of insurance companies. He stated, however, that the

report also expressed the opinion that more federal regulation of insurance is necessary. He noted that the report failed to address how additional federal regulation would solve current regulatory issues and the report gave little factual basis for its conclusions.

Commissioner Donelon said that a general theme throughout the FSB report is critical of the decentralized nature of U.S. insurance regulation. He stated that the insurance regulatory system is a reflection of how the U.S. system of federalism operates and a more centralized structure provides no guarantees of better results. He said the report focuses on the perceived cost of having a state-based system, but spends no time examining the benefits of this approach, such as multiple checks and balances and the ability to quickly respond to state-level issues.

Dave Snyder of the Property Casualty Insurers Association of America (PCI) stated that prior to the financial crisis, bank regulators showed little interest in insurance regulation, but the financial crisis changed all that. He stated that following the financial crisis, the Dodd-Frank Act created the Federal Insurance Office (FIO) within the Department of Treasury, giving it the ability to represent the U.S. in international forums. He noted that the Dodd-Frank Act also created the Financial Stability Oversight Council (FSOC), which has the authority to designate systemically important non-bank financial institutions in the U.S. He said that insurance companies designated as systemically important are regulated by the Federal Reserve, as well as state insurance regulators.

Mr. Snyder stated that the Department of Treasury, the Federal Reserve, and the Securities and Exchange Commission are the U.S. members on the FSB. He stated that FSB has recently issued directives to insurance regulators that go far beyond systemic risk to include resolution and other issues. He stated that the FSB report calls for many changes to U.S. insurance regulation and that FSB, in coordination with the International Association of Insurance Supervisors (IAIS), is pushing to come up with a single global regulatory framework for internationally active insurance groups that are not systemically risky. He said that this push for change is occurring in spite of the fact that all objective evidence demonstrates that U.S. and international insurance regulations currently are performing well.

Mr. Snyder said that the capital standards push reflects FSB members' comfort with a one-size-fits-all bank-centric approach to regulation that is at odds with current effective insurance regulation. He said that there is no evidence that the proposed changes will benefit consumers and that the changes are being discussed behind closed doors without meaningful stakeholder input. He said the IAIS and FSB are also working on ComFrame, a regulatory framework for large internationally active insurance groups, and are being pushed by European interests to adopt an EU approach to group supervision, which could have a negative competitive effect on U.S.-based internationally active insurance companies.

Mr. Snyder said that the FSB report and other current developments at the international level are likely to mean that all U.S.-based insurance companies, not just those designated as systemically risky, will see increased involvement by federal and international organizations in insurance regulations. He stated that U.S. companies could be put at a competitive disadvantage. He said it is imperative that U.S. FSB representatives be directed to deal only with systemic risk and not other insurance regulatory issues. He said there is an urgent need for state and federal lawmakers to reassert an oversight role of insurance in the international arena. He noted that PCI respectfully urges NCOIL to pass the resolution in support of state-based regulation.

G-SIIS AND STATE/INTERNATIONAL REGULATION

Commissioner Donelon stated that on July 18, 2013, the FSB identified nine insurers, including three based in the U.S., as being global systemically important insurers (G-SIIs). He said while the FSB designations are advisory and non-binding, they mean that FSB believes that if these companies

were to fail there could be a negative impact on the global economy. He said that in response to the FSB designations, NAIC expressed concern that the findings may be premature and reiterated the need for further analysis to compare the level of risk for insurers relative to banks.

Bruce Ferguson of the American Council of Life Insurers (ACLI) stated that state insurance policy decisions are affected by what is happening currently at the international level. He said that some of the regulatory initiatives underway at the federal and international level could prove to strengthen state insurance regulation. He cautioned, however, that we should be wary of mission creep in relation to systemic designations. He said that the considerable amount of time NAIC has spent on international issues has been time well-spent. He stated that greater engagement on the part of NCOIL and state legislators on international issues is of the utmost importance.

William Hines of the American Academy of Actuaries (AAA) said that the AAA is very concerned about the scope creep that Commissioner Donelon, Mr. Snyder, and Mr. Ferguson mentioned. He said that AAA is concerned that some of the proposals coming out of the FSB may preempt existing state regulation, affect insurance contracts, and public policy measures.

U.S./NON-U.S. ACCOUNTING STANDARDS

Doug Barnert of Barnert Associates stated that he supports the resolution before the committee relating to state insurance regulation and international issues.

Mr. Barnert said that the major issue at the International Accounting Standards Board (IASB) is ensuring that different jurisdictions are using the same definitions for important terms. He said exposure draft that was recently released by the IASB was an example of confusion surrounding term definitions and principles. He stated that the principles of Solvency II are now agreed upon, but likely will not be implemented until 2018. He said that this will give the accounting standards longer to develop.

TRANS-PACIFIC PARTNERSHIP (TPP) AND U.S.-EU TRADE NEGOTIATIONS

Mr. Birnbaum stated that legislators should be concerned about the Trans-Pacific trade agreements because they will usurp state authority and override important consumer protections. He said that he supports the FSB resolution, but that is not enough. He said that trade issue must also receive more attention from NCOIL.

CONSIDERATION OF RESOLUTION SUPPORTING STATE-BASED REGULATION IN INTERNATIONAL INSURANCE DISCUSSIONS

Sen. Leavell asked if there were any questions or comments regarding the proposed *Resolution Reaffirming Support for the U.S. State-Based System in International Insurance Regulatory Discussions* was considered.

Rep. Wren stated his support for the resolution and noted his intention to form a task force to engage in international issues. He said it was important that NCOIL take a strong stance in support of state-based regulation against international encroachment, as well as federal encroachment.

In response to a question from Rep. Keiser, regarding what the driving force against state-based insurance regulation is. Commissioner Donelon said that it is the natural inclination of the federal government to regulate things in the place of the state and that the insurance market place is becoming increasingly globalized.

In response to a question from Rep. Eiland, asking if there is authority for the FSB and others to enforce their dictates on the states. Commissioner Donelon stated that the authority is not there yet, but it is the next domino to fall and it is likely to result in significant changes to the state-based regulatory system. He said that the international dictates could work their way into the U.S. regulatory system, even without any changes in state or federal law.

Gary Henning of the American Insurance Association (AIA) stated that AIA supports state-based regulation, but has concerns that the proposed resolution is too adversarial. He said it should be less about opposing what is going on now and more about working to make a better system.

A motion was made, and seconded, to approve the resolution. The resolution was approved unanimously.

CONSIDERATION OF PROPOSED 2014 CHARGES

Sen. Leavell referred the Committee to the meeting materials, in which the proposed 2014 charges were listed:

- Examine developments regarding international and federal regulatory efforts that may present greater intrusion into the state system of insurance regulation
- Explore impacts of converging U.S. and international accounting standards
- Advance dialogues with international officials to promote the benefits of state regulation and preserve state insurance oversight
- Monitor trade agreement activity
- Monitor progress of U.S. regulatory and legislative initiatives, such as NAIC model legislation, that has roots in international issues

A motion was made, and seconded, to amend the first charge to add, "and establish task force to interface on and respond to such issues." Upon motion made and seconded, the Committee unanimously adopted the proposed 2014 charges, as amended.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:15 p.m.