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National Conference of Insurance Legislators

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## NCOIL TO NAIC: SLOW DOWN ON CONTROVERSIAL MARKET CONDUCT PROPOSAL

**New York, NY, July 15, 2008** — Naming critical concerns regarding confidentiality and authority, the National Conference of Insurance Legislators (NCOIL) advised a slowdown of a market conduct annual statement (MCAS) proposal being considered by the National Association of Insurance Commissioners (NAIC). The NCOIL Executive and State-Federal Relations Committees on July 11 and 13 unanimously adopted a resolution questioning an NAIC plan to piggy-back on statutorily required annual financial statements in order to facilitate a centralized NAIC market conduct database, during the NCOIL Summer Meeting here.

Sponsored by NCOIL Vice President and State-Federal Relations Committee Chair, Representative Robert Damron (KY), the resolution says that the NAIC should defer consideration of its project “to fully address the concerns of state legislators and other interested parties—and to give state legislators critical opportunities to consider and develop the appropriate public policy with regard to such [MCAS] data.”

The resolution commits NCOIL to “working with the NAIC and with individual state regulators regarding an appropriate collection of market conduct data that would best serve consumers and insurers and promote modernized insurance marketplaces.” It states, among other things, the following concerns.

- No state legislature has required a fundamental change or expansion in the nature of the insurer annual statement to include market conduct data.
- NCOIL has concerns regarding NAIC authority to collect market conduct data as part of an annual statement filing.
- NCOIL questions whether the costs of compliance might outweigh the benefits to consumers, insurance companies, regulators, and state legislatures.
- NCOIL has concerns regarding the confidentiality of market conduct data, since such data has not before been made public.

Adoption of the proposal followed a presentation by NAIC Market Regulation and Consumer Affairs (D) Committee Chair, Commissioner John Morrison (MT), and a nearly one-hour discussion between legislators and regulators regarding the NAIC proposal. Legislators asserted that an NCOIL *Market Conduct Surveillance Model Law* adopted in late 2006 to streamline the market conduct examination process may have better served many of the NAIC proposal’s goals.

Commissioner Morrison described the (D) Committee proposal to collect MCAS data through the Annual Statement Blank—which has been used to collect company financial data, not market data—and to centrally store and analyze such information at the NAIC. He noted that the NAIC Executive Committee was scheduled to consider the proposal during a July 8 conference call that was postponed without a make-up date due to NAIC administrative employment matters.

NCOIL previously had raised concerns over the NAIC proposal in a May 23 letter from NCOIL Officers to NAIC President, Commissioner Sandy Praeger (KS). The letter urged the NAIC to delay an Executive Committee vote to adopt the proposal and noted that “although NAIC and NCOIL have met repeatedly during NCOIL and NAIC meetings, this particular proposal was not brought forward for discussion.” The NAIC deferred the vote on a May 28 conference call, assuring NCOIL President Representative Brian Kennedy (RI) that it would amply vet the proposal and consider legislative input.

Insurance industry trade groups have been critical of the NAIC proposal, saying that the plan is a way to circumvent state statutes that require market conduct data to be considered confidential and that the NAIC did not have the legal authority to maintain the confidentiality of market conduct data—as required by state statutes.

The NCOIL Summer Meeting was held from July 10 through 13 at the Marriott Marquis.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at [www.ncoil.org](http://www.ncoil.org).

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