

## NCOIL Task Force on Final Stretch in Unclaimed Property Model Updates

In a series of conference calls following extensive debate at the NCOIL 2014 Summer Meeting, the NCOIL Unclaimed Property Task Force is finalizing recalibration of its model to reflect the current climate. The NCOIL *Model Unclaimed Life Insurance Benefits Act*, aimed for adoption at the NCOIL Annual Meeting in San Francisco in late November, was originally passed by the NCOIL Executive Committee in November 2011 and has since been adopted in 15 states and is being considered in six more.

The Task Force held lengthy conference calls on July 31, September 2, and October 7 of this year and is scheduling another in mid- to late October. It has deliberated and determined, with input from its members and Advisory Council, to make the model apply *(cont. on page 4)*



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**NCOIL ANNUAL MEETING**  
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San Francisco, CA

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## FIO RELEASES 2014 ANNUAL REPORT, CALLS FOR REINSURANCE "COVERED AGREEMENT"

On September 24, the Federal Insurance Office (FIO) released its *2014 Annual Report on the Insurance Industry*, as mandated by the Dodd-Frank Act, that overviews recent state, federal, and international activity related to certain aspects of insurance regulation. The 51-page report includes key findings and updates on ongoing activity—and calls for a controversial “covered agreement” on reinsurance collateral that could supplant state reinsurance regulation (*see box on page 2*).

According to the FIO, U.S. insurers have continued to show resilience in the aftermath of the financial crisis. At 2013 year-end, the FIO says, the L/H sector reported roughly \$335 billion in capital and surplus and the P/C sector reported roughly \$665 billion. FIO says that global reinsurance markets continued to be important to U.S. insurance industry and that capital in the alternative risk transfer market reportedly grew nearly 30 percent in 2013, amounting to \$50 billion.

The report notes that Dodd-Frank charges the FIO with monitoring the ability of traditionally underserved and low-income communities to access

affordable insurance. After consulting with stakeholders, the study says, the FIO in 2013 determined to focus its analysis on personal auto insurance. In April 2014 the FIO sought comments on what “affordability” really means and on what data the FIO should examine, among other items identified in the report. *(cont. on page 2 sidebar)*

NCOIL has the honor of welcoming **Commissioner Dave Jones** of the California Department of Insurance as the NCOIL Annual Meeting

keynote speaker on Friday, November 21, from 11:45 a.m. to 1:00 p.m. Commissioner Jones—who will address “The Threat to State-Based Insurance Reg-



ulation”—was elected in November 2010 after serving six years in the state Assembly.

## FIO Releases...

(cont. from p. 1)

Though the study never mentions NCOIL's *Unclaimed Life Insurance Benefits Model Act*, it does note that recent state laws (which are all based on versions of the NCOIL model) and legal settlements now require life insurers to regularly check the Social Security **Death Master File (DMF)** to see if benefits should be paid on in-force policies. The *Annual Report* says that the FIO is committed to ensuring appropriate access to the DMF, such as preserving the ability of life insurers to view DMF information.

A lot has been happening federally, the report notes. In 2013, the **Financial Stability Oversight Council (FSOC)** determined that AIG and Prudential Financial should be subject to Federal Reserve oversight/enhanced prudential standards. Congress passed legislation to roll back certain **NFIP rate increases** called for by the Biggert-Waters Act. A producer licensing National Association of Registered Agents & Brokers Reform Act of 2013 (NARAB II) is pending—and should, according to the FIO, be enacted. In addition, **Congress is embroiled** in determining the fate of the Terrorism Risk Insurance Program, said the FIO, and concerns

(cont. on page 3 sidebar)

## NCOIL to IAIS: Openness and Transparency Should Remain Part of IAIS Process

In comments reaffirming NCOIL's commitment to open and inclusive international insurance discussions, NCOIL legislators on September 2 expressed certain concerns to the International Association of Insurance Supervisors (IAIS) regarding an IAIS proposal to change how the organization develops international standards. The NCOIL remarks, submitted in response to an **IAIS request-for-comments**, specifically related to a *Draft Procedures on Meeting Partici-*

*pation and the Development of Supervisory and Supporting Material and Draft Policy for Consultation of Stakeholders.* Founded in 1994, IAIS is a voluntary membership organization of insurance supervisors and regulators from more than 200 jurisdictions in 140 countries.

*Following are the NCOIL comments in their entirety.*

\* \* \* \*

The National Conference of Insurance Legislators (NCOIL)—an organization of state legisla-

tors **who chair and are guiding forces in the committees** responsible for introducing, debating, and endorsing insurance laws in each U.S. statehouse—appreciates the opportunity to comment on the *IAIS Draft Procedures on Meeting Participation and the Development of Supervisory and Supporting Material and Draft Policy for Consultation of Stakeholders.* While we recognize the increasing role that the IAIS is playing in international discussions and understand IAIS interest in promoting

## FIO REPORT CALLS FOR REINSURANCE “COVERED AGREEMENT”

The 2014 FIO Annual Report (*see article beginning p. 1*) cites a lack of state uniformity regarding reinsurance collateral as justification for FIO/USTR negotiations over a reinsurance “covered agreement” with foreign governments/authorities. Below are excerpts from page 47. *Text bolded by NCOIL for emphasis.*

“As of July 2014, 23 states have adopted some measures to reform the requirements relating to collateral for reinsurance. Among those states, however, authorization to accept less than 100 percent collateral has not been uniform in structure or implementation. Other concerns include that the Model Reinsurance Collateral Law relies heavily upon assessments of reinsurers’ creditworthiness by credit rating agencies, rather than on risk-based empirical factors. **These observations support Treasury’s view that in the context of international prudential matters regarding the business of insurance, questions concerning reinsurance collateral should be uniformly addressed on the national level.**”

The Dodd-Frank Act authorizes the Secretary, jointly with the USTR, to negotiate and enter into a “covered agreement” with one or more foreign governments, authorities, or regulatory entities regarding “prudential measures with respect to the business of insurance or reinsurance.” Accordingly, **Treasury and USTR are engaged internally regarding the [FIO] *Modernization Report’s* recommendation to reform reinsurance collateral through a covered agreement based on the amended Model Reinsurance Collateral Law.”**

The report does note that before and during covered agreement negotiations, the Treasury Secretary and the USTR must consult with four congressional committees: the House Committees on Financial Services and on Ways & Means and the Senate Committees on Banking, Housing & Urban Affairs and on Finance.

efficiency, we would like to stress certain practices that need to be observed regarding the approach that IAIS may take.

NCOIL believes that openness and transparency are a requirement in any and all international dialogues that would impact the successful U.S. regulatory system and continues to encourage such **methods of due process**, most recently in resolutions adopted on July 13 relating to capital standards and to guiding principles for insurance regulatory discussions. We called for a meaningful mechanism for state insurance legislators to weigh in and highlighted the importance of coordination and cooperation among legislators, regulators, and interested parties.

Though the draft IAIS procedures express support for a more open and transparent process, NCOIL is unclear as to how closing IAIS meetings would advance that goal. In the U.S., discussions regarding proposed legislation and other matters **must, with very limited exceptions, be open to all** who may be interested—to help

ensure that policymakers are held accountable for their decisions and that the product of those deliberations are given credence. We respect the **integrity and dedication** of regulators active in the IAIS, and so we caution that closing meetings could call IAIS decision-making into question.

“Though the draft IAIS procedures express support for a more open and transparent process, NCOIL is unclear as to how closing IAIS meetings would advance that goal.”

The growing importance of IAIS initiatives, particularly regarding capital standards and corporate governance, **demand a more, not less open approach**. That means, we believe, that a range of interested parties should continue to have a say throughout development of IAIS work products. Limiting stakeholder input will actually endanger the efficiency that IAIS is seeking, as it would be difficult for state legislators in the U.S. to support a proposal affecting U.S. insurance oversight without a full understanding of its impacts and without a belief

that the proposal reflects open and balanced discussion. Global standards, though well-intentioned, will fail to meet their objectives without approval at home.

While choosing a small group of interested parties to offer comments in closed IAIS meetings may be thought of as a way to encourage efficiency while retaining transparency, NCOIL urges you to reconsider, as this approach **could create an un-level playing field** and the appearance of favoritism. It also could lead to work products that pose inadvertent harm to certain segments of the industry, such as small and medium-sized companies that lack significant resources to participate in international discussions.

NCOIL again thanks you for the opportunity to comment. In addition to our submission, we **strongly encourage** you to consider carefully the comments submitted by the National Association of Insurance Commissioners (NAIC) on behalf of state insurance regulation and in support of an IAIS process that is transparent and accountable.

## FIO Releases...

*(cont. from p. 2 sidebar)*

are emerging regarding use of reinsurance captives and private-equity firms buying annuities business.

The study reports that in 2013 **the U.S. lost ground to other markets**, such as China's, when it comes to worldwide premium volume—though the U.S. still came out ahead.

The FIO overviews various activity at the **International Association of Insurance Supervisors (IAIS)**—including a Common Framework for insurance supervision (ComFrame) and efforts to develop standards for winding down insurance companies—and reports on an EU-U.S. Insurance Project initiative and on **Financial Stability Board (FSB) activity**, including the FSB decision in 2013 to designate nine companies—including three based in the U.S.—as global systemically important insurers (G-SIIs).

Perhaps most controversially, the FIO calls for negotiating **“covered agreements” for overseeing reinsurers**—in light, FIO asserts, of a lack of state-by-state uniformity and growing pressure from the EU to have U.S. regulation more closely align with the EU's Solvency II approach. A “covered agreement” could displace state regulation. *Further details on page 2.*



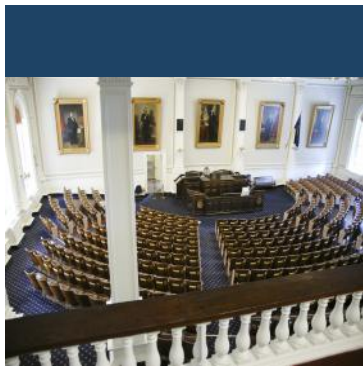
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## NCOILetter

Susan F. Nolan, Publisher/Editor  
Candace Thorson, Managing Editor

Robin Mochrie, Fin. Coordinator

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## NCOIL Task Force on Final Stretch...

retroactively, to require semi-annual full use of the U.S. Social Security Death Master File (DMF) and DMF updates subsequently, to retain an exemption for pre-need funeral contracts, to clarify that the model applies to annuities and retained asset accounts, and to address the use of "fuzzy logic,"



(cont. from page 1)

or variations in data in DMF searches, among other things.

The Task Force also has rejected proposed language that would have, among other items, limited search application only within state of issuance, added language regarding "asymmetrical matches," added further insurer reporting requirements, and exempted from DMF searches policies that had lapsed or terminated within the last 15 years.

In walking through the model section-by-section prior to the NCOIL Annual Meeting in California, the Task Force will next consider language on commissioner discretion and on guiding principles relating to constitutionality.