CLIENT MEMORANDUM

NAIC Report: 2015 Summer National Meeting

September 9, 2015

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Introduction

The 2015 Summer National Meeting (the "Summer National Meeting") of the National Association of Insurance Commissioners ("NAIC") was held in Chicago, Illinois from August 14 to 18. Some of the significant developments from the Summer National Meeting are the release of a new draft XXX/AXXX credit for reinsurance model regulation, discussion of the results of the 2015 Financial Sector Assessment Program ("FSAP") of the United States' regulatory framework by the International Monetary Fund ("IMF"), and consideration of group capital standards. Additionally, cybersecurity issues continue to be a focus of state and federal regulators and legislators alike.

This report summarizes some of the key activities at the Summer National Meeting and NAIC interim meetings and conference calls that may be of interest to our clients in the insurance industry.

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I. TOPICS OF GENERAL INTEREST

A. Cybersecurity

In our report on the NAIC's 2015 Spring National Meeting (the "Spring National Meeting"), we described industry and regulators' exploration of the developing threats to cybersecurity and the risks associated with security breaches. At the Summer National Meeting, the NAIC Executive (EX) Committee (the "Executive Committee") authorized the Cybersecurity (EX) Task Force (the "Cybersecurity Task Force") to revise and update existing model laws related to consumer privacy (the Insurance Information and Privacy Protection Model Act and the Privacy of Consumer Financial and Health Information Regulation (together, the "Privacy Models")).

As described in its Requests for Model Law Development, the Cybersecurity Task Force's charge is to propose amendments to the Privacy Models implementing the "latest cybersecurity expectations and the new National Institute of Standards and Technology ("NIST") Cybersecurity Framework." In 2013, President Obama issued an Executive Order commissioning NIST, an agency of the U.S. Department of Commerce, to "work with stakeholders to develop a voluntary framework – based on existing standards, guidelines, and practices – for reducing cyber risks to critical infrastructure." The NIST Cybersecurity Framework was the result. The Insurance Information and Privacy Protection Model Act was first developed in the 1980s and the Privacy of Consumer Financial and Health Information Regulation was initially adopted by the NAIC in 2000 in response to the federal privacy provisions in the Gramm-Leach-Bliley Act. At the Summer National Meeting, the Cybersecurity Task Force indicated that it was time for the NAIC to take a fresh look at the consumer protections afforded under the Privacy Models in order to keep pace with the increased focus on cybersecurity and privacy protection since their adoption. The goal is to develop amendments to the Privacy Models within a year.

With respect to insurers' protection of customer information against cyber risks, the Cybersecurity Task Force at the Summer National Meeting:

(1) Adopted the "Principles for Effective Cybersecurity: Insurance Regulatory Guidance," (the "Principles") which sets forth 12 guiding principles for the protection of insurance customers (later adopted by the full NAIC). The Principles, which are based on the NIST Cybersecurity Framework, state in part that: insurance regulators should ensure that personally identifiable consumer information held by insurers, producers and other regulated entities is protected from cybersecurity risks, and that insurers must appropriately safeguard sensitive information and provide notice of data breaches. The regulators' role in promoting uniform guidance and the industry's role in reporting on risks and practical solutions are emphasized in the Principles, which are intended to reflect the general regulatory perspective through which insurance regulators will view cyber and data protection issues; and

(2) Exposed for comment by interested parties a draft consumer Cybersecurity Bill of Rights. The Bill of Rights includes the consumer's right to know the kinds of information maintained by an insurer, and to receive timely notice of a data breach and assistance from the insurer in addressing issues arising from such data breach. The

Bill of Rights is intended to set standards for helping consumers if their personal information is compromised. At the Summer National Meeting, it was stated that some of this language will be considered for use in the upcoming revisions to the Privacy Models.

The Cybersecurity Task Force is also authorized to identify and propose standards related to cyber risks insured by insurers. In this respect, the Task Force adopted at the Summer National Meeting the Cybersecurity and Identity Theft Coverage Supplement to the Annual Statement (later adopted by the full NAIC), which requires reporting entities that provide cybersecurity coverage to report certain information as to the coverage offered.

B. Group Supervision and Capital Initiatives

1. NAIC Group Capital Calculation

The ComFrame Development and Analysis (G) Working Group (the "CDAWG") discussed at the Summer National Meeting its draft document regarding possible approaches to a group capital calculation (the "Discussion Draft"). The Discussion Draft explores several possible approaches to the assessment of insurance group capital. The option ultimately adopted by the NAIC, after consideration of the Discussion Draft, would apply to all U.S.-based groups – not just U.S.-based Internationally Active Insurance Groups ("IAIGs") as so designated by the International Association of Insurance Supervisors ("IAIS"). Regulators emphasized that the group capital calculation is intended as an assessment tool rather than a fixed or required minimum capital standard.

The Discussion Draft sets forth the pros and cons of three potential approaches to calculating group capital, as follows:

i. Risk-Based Capital ("RBC") Aggregation – this approach would calculate group capital as the sum of existing regulatory capital calculations for all entities within the holding company system (including, for example, RBC for U.S. insurers and Basel for banking entities).

   - Pros – this approach would have the least impact on industry and regulators because it is most similar to or compatible with U.S. RBC. This would potentially avoid the time and effort involved in establishing a single consolidated accounting system.

   - Cons – because this approach would include amounts from different accounting systems, consolidating adjustments would be required; it would not be calibrated to a specific target level; and an accounting basis and/or capital standard would have to be established for holding company group members not already subject to regulatory capital requirements.

ii. Statutory Accounting Principles ("SAP") Consolidated Filing for RBC – this approach would establish consolidating SAP rules for all entities in an insurance holding company system and would require use of consolidated SAP financial statements in the RBC formula.

- Pros – this approach establishes a consistent accounting method for all entities and it utilizes RBC.
- Cons – this approach establishes another consolidated accounting standard, which will require more time and resources to develop.

iii. Generally accepted accounting principles (“GAAP”) consolidated filing for RBC-Plus – this approach would use existing GAAP consolidated financial statement results in an RBC formula adjusted to reflect more going concern confidence levels and time horizons.

- Pros – this approach uses a consistent accounting method for all entities, GAAP consolidated financial statements are already produced by many insurance groups, and it utilizes RBC.
- Cons – this approach does not address groups that do not prepare GAAP consolidated financial statements, it lacks the granularity of statutory accounting, and is potentially burdensome to develop.

Florida Commissioner Kevin McCarty, Chair of CDAWG, noted that CDAWG’s efforts would not only result in a group capital system in the United States but would also serve to advance discussions between state insurance commissioners and federal and international regulators. He noted that the absence of a group capital system hinders the states’ ability to join the federal and international dialogue on this issue. CDAWG and the Federal Insurance Office (“FIO”) want to make sure that the regulatory system in the United States is growing at the right pace and is trying to identify gaps in regulation. He observed that progress is being made as demonstrated by the fact that coordinated examinations are now the standard, as well as by the increased use of supervisory colleges. Commissioner McCarty stated that he believes the NAIC would be working on these initiatives even if the rest of the world were not pushing them forward.

Rhode Island Superintendent Joe Torti agreed and speculated that industry members may be seeing group supervision as being duplicative of what state regulators do on a legal-entity basis. He disagrees with that view, stating that with all of the changes in the Insurance Holding Company System Model Act (the “HCA”), own risk solvency assessment (“ORSA”) and enterprise risk management (“ERM”), among others, there is a real need to be able to tie all of the gathered information together. It was noted that the states are passing more laws that provide for group regulatory power, and that it is difficult to use those tools until regulators better understand the risk contributed to a group, especially by the non-insurance entities.

C. International Group Supervision and Group Capital Matters

1. ComFrame Update

CDAWG provided an update at the Summer National Meeting on the IAIS’ Common Framework for the Supervision of Internationally Active Insurance Groups (commonly referred to as “ComFrame”). The two main areas of work by the IAIS that are currently underway for ComFrame are field-testing and development of group capital standards.

With respect to field testing, analysis of the field testing of group structure and corporate governance is currently being performed by the field-testing sub-group. The field testing of other areas such as risk management, supervisory colleges, group-wide supervisory processes and the scope of supervision, is currently being performed. Additionally, the second round of quantitative field testing began in the spring and ended September 4th. It was noted that the development of the insurance capital standards continues to be a focal point for the IAIS, and that the development is being enhanced by the results of the field-testing.

With regard to group capital for IAIGs, work continues on the following group capital standards being developed with ComFrame: (i) Basic Capital Requirements ("BCR"), which was approved by the IAIS and G-20 last year, and is scheduled to go into effect for global systemically important insurers ("G-SIIs") in 2019; (ii) Higher Loss Absorbency, on which a consultation paper was released on June 25 (and is expected to be endorsed by the G-20 at year-end), and which is scheduled to go into effect for G-SIIs in 2019; and (iii) the global insurance capital standard ("ICS"), which at some point is expected to replace BCR as the base group capital standard applicable to all IAIGs.

CDAWG provided an update on ICS, noting that there will be more than one version of ICS prepared in the next few years, as it is expected to evolve, and that the next ICS consultation is expected in May/June of 2016, with comments due in September/October of 2016. Although the IAIS had previously set a target date of 2019 for ICS to go into effect, which many U.S. regulators viewed as being too soon, this year the IAIS withdrew that target and has not set a new target date.

2. Holding Company Act Accreditation Update

In 2014, the Group Solvency Issues (E) Working Group ("GSIWG") proposed amendments to the HCA to authorize state regulators' participation in the group-wide supervision of IAIGs. The 2014 revisions to the HCA (the "HCA Amendments") focused primarily on U.S. regulators' authority to lead or participate in the group-wide supervision of international insurance groups, including IAIGs and those insurance holding company systems that request a determination or acknowledgement as to their group-wide supervisor. The HCA Amendments provide that a commissioner may determine itself to be the appropriate group-wide supervisor for an IAIG that conducts substantial insurance operations concentrated in such commissioner's state and enumerate the factors to be considered when making such a determination. Ultimately, identification of the appropriate single group-wide supervisor for an IAIG is to be made in cooperation with other state, federal and international regulators. The group-wide supervisor of an IAIG may engage in specified group-wide supervisory activities. When the HCA Amendments were adopted by Executive Committee and Plenary ("Executive and Plenary"), it was recommended that all states consider enacting the changes.

The HCA is already an NAIC accreditation standard, and the outstanding question is whether the HCA Amendments would become a required part of that NAIC accreditation standard by certain provision(s) being deemed a "significant element" of the HCA for accreditation purposes. During the development of the HCA Amendments, the GSIWG did not develop a recommendation regarding those changes becoming an NAIC accreditation standard, as there was some question whether adopting the HCA Amendments is necessary for states that would not be considered the lead state for a

group. However, following adoption of the HCA Amendments by the Executive and Plenary, the GSIWG drafted a referral to the Financial Regulation Standards and Accreditation (F) Committee ("Accreditation Committee") to raise the question of whether the HCA Amendments should become one or more additional "significant elements" for the HCA standard within Part A of the NAIC accreditation standards. At the Spring National Meeting, the Accreditation Committee decided to expose the referral for public comment for 30 days.

In response to that exposure, the Accreditation Committee received an additional memorandum from the GSIWG in July, recommending that the HCA Amendments be adopted as an NAIC accreditation standard for all states that (i) are the group-wide supervisor of an IAIG or (ii) have a domestic company that is a member of an IAIG where the IAIG's group-wide supervisor is another U.S. state. The memorandum does not make a recommendation as to whether or not the HCA Amendments should become an NAIC accreditation standard for states that do not satisfy (i) or (ii) above, although it notes that they are "mindful of the fact that an acquisition of an existing company by one of these large groups in one of these states could quickly require the state to come into compliance." The memorandum also proposes certain provisions of the HCA Amendments for consideration as "significant elements" for purposes of accreditation, including the authorization to serve as a group-wide supervisor, the factors determining who should serve as a group-wide supervisor, and the definitions of group-wide supervisor and internationally active insurance groups. During the Summer National Meeting, the Accreditation Committee voted to expose the referral for an additional one-year comment period beginning January 1, 2016. The Accreditation Committee expects to consider making the HCA Amendments an NAIC accreditation standard at the 2017 Summer National Meeting. If adopted by the NAIC, the HCA Amendments would become an NAIC accreditation standard on January 1, 2020.

D. International Developments

1. United States FSAP Completed

The FSAP of the United States was completed this summer, and overall acknowledges broad compliance with the Insurance Core Principles (the "ICPs") promulgated by the IAIS. The FSAP is an evaluation conducted every five years by the IMF, which, among other items, analyzes the strength and scope of an insurance regulatory scheme under the standards of the ICPs. State regulators had been working on the FSAP for the last year, which was coordinated by the U.S. Department of the Treasury and included collaboration with the Federal Reserve Board, FIO and the Federal Deposit Insurance Corporation ("FDIC"), among others. The first published findings of the FSAP, the Detailed Assessment Reports ("DARs"), were published in April by the IMF. Separate DARs were published with regard to analyzing the insurance sector and the banking sector, and these reports detailed the results of the "first mission" of the FSAP process. For the insurance-related DAR, this included considering the United States' compliance with the ICPs, and overall the DAR reported a "reasonable" level of compliance with the ICPs. The "second mission" of the FSAP process involved techniques such as stress testing and systemic risk oversight. The final FSAP assessment documents (collectively, the "FSSA"), which covered all sectors including insurance, were released by the IMF on July 7, 2015 and overall acknowledge broad compliance with the ICPs, reporting that 21 out of 26 ICPs are fully or broadly implemented.

The FSSA recognizes improvements in some areas since the last U.S. FSAP was performed in 2010, including with regard to: (i) objectives, powers and responsibilities of the supervisor (ICP 1), where the adoption of the HCA Amendments and the establishment of FIO and extension of the Federal Reserve Board's authority of U.S. Systemically Important Financial Institutions ("SIFIs") are noted; (ii) group supervision (ICP 23), where it is noted that the HCA Amendments allow state regulators to supervise insurance groups, and that the Federal Reserve has consolidated supervision over certain types of entities; (iii) information exchange and confidentiality requirements (ICP 3), noting that the extent of information exchanged has increased both domestically and internationally; and (iv) supervisory review and reporting (ICP 9) and supervisory cooperation and coordination (ICP 25), noting the HCA Amendments, the enhanced role of the lead state regulator, and the growth in supervisory colleges. The FSSA also reflects that while measures such as ORSA and the NAIC's new corporate governance requirements are not yet in effect, they will be considered to constitute improvements.

However, the following areas are noted as needing, or continuing to need, improvement: (i) objectives, powers and responsibilities of supervisors (ICP 1), (ii) supervisor's independence, accountability, resources (ICP 2), (iii) corporate governance (ICP 7), (iv) valuation (ICP 14) and (v) group-wide supervision (ICP 23). The key recommendations of the FSSA include: (i) to set up an independent insurance regulatory body with nationwide responsibilities and authority, (ii) to develop and implement group supervision and group-level capital requirements for insurance companies, which could be implemented through model law development or through requirements developed by the Federal Reserve Board, (iii) to develop and perform regular insurance stress tests on a consolidated group-level basis and (iv) to implement a principle-based valuation standard for life insurers consistently across the states (with respect to which the NAIC has noted that principles-based reserving may become effective as early as January 1, 2017).

The first key recommendation in the FSSA has generated a heated response from state regulators and industry members alike. The FSSA elaborates by stating in its Executive Summary that "[a]n independent national regulator is an imperative for the insurance sector to address gaps with international standards (including weaknesses in valuation and solvency requirements) and to ensure consistency in regulation and supervision" and its statement that "[a]n insurance regulatory body with nation-wide remit is needed to deliver enhancements and greater regulatory and supervisory consistency." Unsurprisingly, the NAIC strongly disagrees with this recommendation.

At the International Insurance Relations (G) Committee meeting at the Summer National Meeting, Christy Neighbors, Deputy Director and General Counsel of the Nebraska Department of Insurance, who has been the state regulator point person coordinating the FSAP evaluation, provided a report on the FSAP and said that the NAIC's next step is to review the FSAP recommendations to identify any items that the NAIC should consider, and process those items through the normal workstream of the appropriate working group. She emphasized that domestic regulators had pushed back hard throughout the process against the negative findings in the FSSA.

The industry responded very negatively at the NAIC meeting to the criticisms in the FSAP, saying they show a misunderstanding and undervaluing of U.S. insurance regulation. A significant portion of the NAIC/Industry Liaison Committee session of the Summer National Meeting was spent discussing these concerns, with multiple trade

associations speaking in hopes of starting a dialogue on the findings. Some points highlighted as particularly concerning were that (a) the FSSA seems to focus on concerns about the state-based system, (b) that the FSSA states the view that nonbank financial institutions, which include insurance companies and hedge funds, contribute to systemic risk in an amount that is disproportionate to their size, and (c) that the FSSA recommends that the FDIC's liquidation authority be extended to SIFIs. Speakers felt that these points go far beyond the expected criticism to the U.S. approach to group capital.

E. ORSA

1. Confidentiality Concerns Continue to be Raised at the Accreditation Committee

At the Summer National Meeting, the Accreditation Committee continued to hear comments relating to the possibility of the Risk Management and Own Risk Solvency Assessment Model Act ("ORSA Model Act") becoming an NAIC accreditation standard (the "ORSA Accreditation Proposal"). The ORSA Model Act requires insurers or an insurance group to maintain a risk management framework, regularly perform an ORSA and annually file an ORSA summary report.

The ORSA Accreditation Proposal was exposed for comment in 2013 and then again in 2014, and the industry's concerns regarding confidentiality have not abated. At the Spring National Meeting, interested parties had suggested that the ORSA Accreditation Proposal require states to adopt confidentiality provisions "identical or functionally equivalent to" the language included in the ORSA Model Act, but later clarified that they would be comfortable with states being required to adopt "substantially similar" confidentiality protections, so long as this required a state's confidentiality provisions to accomplish the same level of protection as the provisions in the ORSA Model Act. Kay Noonan, General Counsel of the NAIC, explained during the discussion at the Summer National Meeting that in the past, compliance with multi-factor accreditation standards was determined by a holistic approach, rather than an analysis of each of the factors. With respect to confidentiality, for example, she noted that appropriate freedom of information act protections are the core protection, and the rest of the confidentiality protections flow from the Freedom of Information Act rules.

In light of the ongoing discussion, the Accreditation Committee decided to adopt the ORSA Accreditation Proposal with one revision, which notes that a state must adopt legislation that includes substantially similar provisions for protecting confidential information submitted to and in the possession of the commissioner. However, the Accreditation Committee also decided it would not make a recommendation to Executive and Plenary at this time with respect to further adoption, but rather will continue to consider at the NAIC's 2015 Fall National Meeting whether there is a better approach to be taken with respect to confidentiality. At the NAIC's 2015 Fall National Meeting, the Accreditation Committee may consider further revisions to the ORSA Accreditation Proposal or may make a recommendation to the Executive and Plenary that it be adopted. If it is adopted by the NAIC in 2015, the ORSA Model Act would become an NAIC accreditation standard on January 1, 2017. As of mid-August, the NAIC reported that 35 states have adopted the ORSA Model Act.

2. ORSA Pilot Program Reported Successful

In the Financial Condition (E) Committee ("E Committee") meeting at the Summer National Meeting, it was reported that the 2014 ORSA pilot project was successfully completed this summer and that the report on the results, including the observations of regulators reviewing the filings, was made public. The number of states and companies participating rose again this year, and regulators observed that every year the quality of the reports improved. This pilot project was the third and final ORSA pilot program.

The NAIC hosted a webinar on August 11, 2015 to review ORSA best practices based on the report on the 2014 pilot project. The report and webinar included six key recommendations for improving the quality of an ORSA report: (1) articulate the link between the company's key strategic initiatives and its ERM framework, (2) describe the development status of ERM processes already effected or under development, (3) provide clarity about which legal entities are within the scope of the ORSA report, (4) have consistency between the three sections of the ORSA report in terms of which key risks are identified and addressed, (5) include supporting reasoning for the choice of methodologies used and assumptions selected, and (6) explain the use of the ORSA by the business units.

F. Reinsurance Update

1. Covered Agreement

During its session at the Summer National Meeting, the Reinsurance Task Force heard a continuation of the discussion from the Spring National Meeting about a covered agreement on reduced collateral for reinsurance being developed by FIO.

As background, in July 2014, a joint project of U.S. and European Union regulators to better understand each other's regulatory frameworks (previously referred to as the "EU/U.S. Dialogue Project") updated its primary document, "The Way Forward," to include the statement that the European Union and the Department of the Treasury/FIO, with the consultation of state insurance regulators, should take initial steps toward a covered agreement that, for the United States, would be based on the NAIC's Credit for Reinsurance Model Law, as amended in 2014 to incorporate reduced collateral provisions (the "Amended Credit for Reinsurance Model Law"). If a covered agreement in this format is entered into with a foreign jurisdiction, it is expected that: (i) any state laws prohibiting a U.S. cedant from obtaining full credit for reinsurance ceded to a reinsurer that is domiciled in such foreign jurisdiction, has qualified as a "certified reinsurer," and has posted the required amount of reduced collateral, will be preempted; and (ii) as a reciprocal measure, any laws of that foreign jurisdiction prohibiting a cedant domiciled therein from obtaining full credit for reinsurance ceded to a U.S. reinsurer that has gone through a qualification process in such foreign jurisdiction, and has posted reduced collateral, will likewise be preempted. Near the end of 2014, FIO disclosed that a covered agreement was under development, and that it was expected to be based on the Amended Credit for Reinsurance Model Law.

State insurance regulators continue to oppose any potential intervention by the U.S. federal government into the state-based model of insurance regulation that is currently in effect in the United States. As such, the Reinsurance Task Force has continued to voice its opposition to the development by FIO of any international covered agreement addressing reinsurance, including the statement by one regulator at the Reinsurance Task Force session at the Summer National Meeting that he “grows increasingly concerned by any discussion around state preemption when there is so much good work going on [by the states].” This position was countered by a number of industry representatives stating that it is critical that equivalency of the United States be established or a covered agreement be in place as of January 1, 2016, when the Solvency II regulatory regime will go into effect in Europe. The representatives noted that U.S. insurance groups are already facing heightened requirements in order to conduct business in Poland and the Netherlands. There was no formal update on any progress being made on a covered agreement.

2. Qualified Jurisdictions Update

During the Summer National Meeting, it was reported that this year no further jurisdictions have formally requested to be added to the NAIC List of Qualified Jurisdictions and that this year no reinsurers domiciled in any further jurisdictions have applied for certified reinsurer status.

3. Work on Certified Reinsurer Passporting Continues

Steve Johnson, Deputy Commissioner of the Pennsylvania Insurance Department, reported for the Reinsurance Financial Analysis (E) Working Group (“Reinsurance-FAWG”) to the Reinsurance Task Force that Reinsurance-FAWG is continuing its work on “passporting” certified reinsurers, and that there are now a total of 28 passported certified reinsurers. He noted it had become necessary to modify the timeline for renewing passports, and that renewal applications will now be considered in the fourth quarter, with the renewal to be effective for the following year. Mr. Johnson reported that they are working on the Reinsurance-FAWG procedure manual, in order to enhance its guidance and advise others in understanding the Reinsurance-FAWG passporting processes. Further, they propose to debut a public website, the intent being to provide the public with a better understanding of (a) the Reinsurance-FAWG’s involvement in the passporting process, (b) who is passported, and (c) how to get certified and passported. Mr. Johnson proposed that the Reinsurance Task Force expose a memorandum outlining the information that they propose to put on the public website, and the Task Force agreed to expose it for 30 days. The information includes instructions for how to apply for and maintain passported status, as well as clarifying the relative roles of the individual states, the lead state, and the Reinsurance-FAWG in granting collateral reduction. If approved by the Reinsurance Task Force, it was asserted that the website would be loaded by the time of the NAIC’s 2015 Fall National Meeting.

4. Proposal for the Amended Credit for Reinsurance Model Law to Become an NAIC Accreditation Standard

The Reinsurance Task Force noted that 32 states have adopted the Amended Credit for Reinsurance Model Law, with five more states currently considering them. According to the Task Force, insurers domiciled in the 32 states represent over 66% of insurance premium written in the U.S. and the 37 states would represent approximately 93%. Currently, the Amended Credit for Reinsurance Model Law is an optional NAIC accreditation standard, meaning that a state can choose whether or not to adopt reduced collateral provisions, but that if it does it must adopt provisions that are substantially similar to the Amended Credit for Reinsurance Model Law. At the time that the Amended Credit for Reinsurance Model Law was being amended, it was generally agreed that adoption would not be mandatory for all states for state accreditation purposes.

However, at the meeting of the Accreditation Committee at the Spring National Meeting, this issue of accreditation was re-opened. Interested parties indicated that uniformity among the states is very important, particularly if the passporting process is to work as intended, and Superintendent Torti, as a member of the Accreditation Committee and Chair of the E Committee, agreed that the issue should be considered again by the Accreditation Committee at a future meeting. The Reinsurance Task Force and Accreditation Committee stated at the Summer National Meeting that they will re-open discussion at the NAIC's 2015 Fall National Meeting on whether adoption of the Amended Credit for Reinsurance Model Law should become a mandatory NAIC accreditation standard, with Missouri Director John Huff, as Chair of the Accreditation Committee, stating in the Accreditation Committee meeting that he expects they will spend "a lot" of time discussing these matters.

G. NAIC Considering Re-Opening Model Act on U.S. Branches

The E Committee discussed a referral from the Accreditation Committee to consider re-opening the State of Entry Model Law (the "Entry Model Law"). The Entry Model Law is used by non-U.S. insurers to set up insurance operations (referred to as a "branch") within the United States without forming a separate corporate entity to be domiciled there. In 2014, the question was raised whether such branches are subject to the NAIC accreditation standards, in the same way that regulators have been debating whether the NAIC accreditation standards apply to certain types of captives in recent years. In the E Committee meeting, Superintendent Torti reported it was found that the Part A and Part B preambles to the NAIC accreditation standards (which set out the scope of their applicability) do not specifically include or exclude these types of insurers. The Accreditation Committee's referral notes that, before pursuing the question of whether branches are within the scope of the NAIC accreditation standards, the NAIC should review and update the Entry Model Law to ensure that its provisions are still applicable and appropriate, as it has not been revised since its promulgation in 1993.

Superintendent Torti said that approximately 19 states have port-of-entry laws permitting branches to be established in their state. Superintendent Torti observed that, in talking with regulators in those states, the general perception is that the branches are subjected to the same processes imposed on domestic insurers. The E Committee adopted Superintendent

Torti's proposal that NAIC staff conduct a survey to determine which states allow state-of-entry for U.S. branches, which provisions of the port-of-entry laws are critical, and whether the state has a statute that specifically subjects U.S. branches to the same laws, analysis and examinations that domestic insurers are subject to. Superintendent Torti anticipates that, after receiving the results of the survey, they would ask the Executive Committee for authorization to review and amend the Entry Model Law. He acknowledged that they may need to form a new working group, in which case they would expect to ask the port-of-entry states to serve as members. The referral notes that, once the Entry Model Law is deemed up to date, the Accreditation Committee will consider whether it should be added to Part A of the NAIC accreditation standards.

H. Briefly Noted

1. Model Audit Rule – Technical Correction

In 2014, the NAIC adopted revisions to the Annual Financial Reporting Model Regulation (the "Model Audit Rule") to require insurers meeting certain premium thresholds to maintain an internal audit function. As revised, the internal audit function requirement did not apply to insurers (a) with less than $500,000,000 of annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program (the "Small Size Test") or (b) that belonged to a group of insurers with less than $1,000,000,000 annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program (the "Small Group Test"). At the Summer National Meeting, the E Committee adopted a technical correction to the revised Model Audit Rule to clarify that an insurer is only exempt from the internal audit function if it satisfies both the Small Size Test *and* the Small Group Test. The E Committee explained that the premium threshold, as now revised, is consistent with what was intended and with other NAIC model laws such as the ORSA Model Act. This editorial change to the revised Model Audit Rule was further adopted by Executive and Plenary.

2. Private Equity Issues Working Group Updates the Financial Analysis Handbook

The Private Equity Issues (E) Working Group was charged with developing procedures that insurance regulators can use when considering ways to mitigate or monitor risks associated with private equity/hedge fund ownership or control of insurance company assets. The Working Group's primary focus was to develop a new section of the Financial Analysis Handbook to set forth more detailed guidance for insurance regulators reviewing "Form A" applications submitted by those seeking to acquire control of an insurer. Among other things, the revisions direct regulators to consider risks of the acquiring entity and the entire group of affiliated insurers and non-insurers under its control and suggest that the regulator impose certain conditions on the acquiring entity when approving a Form A application (*e.g.*, requiring the insurer's RBC level to be maintained at a specified level above company action level/trend test level). The guidance is not specifically directed at private equity and hedge fund acquirers but is designed to assist the insurance regulator in assessing different risks that may be associated with an acquisition of control of an insurer by any type of acquirer.

The revisions were adopted by the Financial Analysis Handbook (E) Working Group on August 6, 2015. The revisions will now go through the NAIC's Technical Changes process and, barring any unexpected objection from an NAIC member, will appear in the next edition of the Financial Analysis Handbook to be published in late December 2015. Its charge now completed, the Private Equity Issues (E) Working Group was disbanded at the Summer National Meeting.

3. NAIC Signed an MOU with Bermuda

On August 15, the NAIC signed a memorandum of understanding ("MOU") with Bermuda. The MOU will aid coordination between jurisdictions with respect to regulatory issues. The NAIC has now entered into MOUs with 15 individual and regional jurisdictions representing 34 countries, including Brazil, Egypt, Hong Kong, Iraq, Korea, Russia, Thailand, and the Association of Latin American Insurance Supervisors, whose members include 21 jurisdictions in Europe, Central America, North America and South America.

4. Additional NAIC Accreditation Standards Move Forward

The Accreditation Committee had previously exposed for comment proposals to make the following items NAIC accreditation standards: Corporate Governance Annual Disclosure Model Act,[1] the Corporate Governance Annual Disclosure Model Regulation, and the 2014 revisions to the Model Audit Rule (together, the "Accreditation Proposals"). At the Summer National Meeting, the Accreditation Committee voted to expose each of the Accreditation Proposals for an additional one-year comment period beginning January 1, 2016. It is expected that the Accreditation Committee will next consider each Accreditation Proposal at the 2017 Summer National Meeting and, if adopted by the NAIC, the Accreditation Proposals would become effective January 1, 2020.

5. RBC Charge for Investment Affiliates

The Capital Adequacy (E) Task Force (the "Capital Adequacy Task Force") received a referral from the Property and Casualty Risk-Based Capital (E) Working Group to review the affiliated investment risk section across all RBC blanks, so as to ensure that the presentation of this item in the RBC formulas is straightforward for filers, easily validated for regulators, and consistent across all RBC blanks unless valid explanations exist for differences. The referral specifically referenced investment affiliates as a good example of a target item for this review, noting that regulators cannot verify the accuracy of the data submitted with respect to such investment entities, since such entities do not file RBC reports. The referral also noted the existence of unexplained discrepancies among the methodologies of establishing the risk charges for the various types of investment affiliates.

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[1] The NAIC's SMI Dashboard (available here) indicates that as of July 20, 2015, only four states (Indiana, Iowa, Louisiana and Vermont) had adopted the Corporate Governance Annual Disclosure Model Act, while action was under consideration in two more states (California and Rhode Island).

The current RBC charge for the ownership of an investment affiliate is based on the RBC of the underlying assets of the investment affiliate, pro-rated to account for the insurer's degree of ownership of such assets. This methodology effectively treats an insurer's assets held by an investment affiliate in the same fashion as if the assets were held by the insurer directly (a so-called "look-through" approach). This approach was recently modified by the Capital Adequacy Task Force with respect to health insurers, which are now required to set an RBC charge for an investment in an investment affiliate that is equal to 30% of the book/adjusted carrying value of the common and preferred stock of the investment affiliate.

The Capital Adequacy Task Force forwarded the referral to the Investment Risk-Based Capital (E) Working Group (the "Investment RBC Working Group"). It is possible that a new RBC working group may be established to focus on the affiliate investment risk issue.

II. TOPICS OF INTEREST TO THE LIFE INSURANCE INDUSTRY

A. Captive Update

1. Draft XXX/AXXX Credit for Reinsurance Model Regulation Exposed

Over the last two years, state insurance regulators and the NAIC have devoted significant energy to reassessing their regulation of captive XXX and AXXX transactions, leading to the adoption of (a) a new regulatory framework for such transactions, the XXX/AXXX Reinsurance Framework (the "Framework") and (b) Actuarial Guideline 48 ("AG 48"), an important component of the Framework.

The purpose of AG 48 is to implement the substantive requirements of the Framework effective as of January 1, 2015, pending the development and adoption by the states of the new Non-Universal Life and Universal Life with Secondary Guarantees Credit for Reinsurance Model Regulation (the "XXX/AXXX Model Regulation"). Late in the fall of 2014, the NAIC established the XXX/AXXX Captive Reinsurance Drafting (E) Subgroup (the "XXX/AXXX Drafting Subgroup") in order to draft the XXX/AXXX Model Regulation and amendments to the Amended Credit for Reinsurance Model Law necessary for the implementation of the XXX/AXXX Model Regulation.

At the Summer National Meeting, the Reinsurance Task Force exposed for comment for 45 days the draft XXX/AXXX Model Regulation, two alternative drafts of the amendments to the Amended Credit for Reinsurance Model Law and a discussion memorandum. The Reinsurance Task Force reported that, with the exception of the noncompliance penalty provision, these documents are consistent with AG 48. The noncompliance penalty provision as drafted provides that if a cedant does not fully comply with AG 48, it will receive zero credit for any of the ceded reinsurance (the so-called "All or Nothing" approach). However, the XXX/AXXX Drafting Subgroup was not unanimous in its support for this treatment, and requested discussion by the Task Force. After extended discussion by the Task Force, the draft was not amended prior to exposure, and therefore still provides for the "All or Nothing" approach to the credit for reinsurance provision.

The discussion memorandum exposed for comment with the XXX/AXXX Model Regulation provides for three alternatives to the "All or Nothing" approach: (i) the "Dollar for Dollar Reduction" approach, which, consistently with the Framework, provides for a dollar-for-dollar reduction to credit for reinsurance ceded, based on the shortfall (if any) between the actual level of Primary Security (*i.e.*, the types of "hard assets" required to collateralize the portion of the total statutory reserve approximately equal to the principle-based reserving ("PBR") level) and the required level of Primary Security, while giving full credit for the Other Security; (ii) the "Percentage Reduction" approach, which provides for a proportional percentage reduction to total credit for reinsurance ceded, based on the proportion of any shortfall between the actual level of Primary Security and the required level of Primary Security; and (iii) the "Primary Security Limitation" approach, which provides that a cedant may take credit for reinsurance ceded that is limited to the amount of Primary Security held by the cedant, and requires the cedant to establish a liability equal to the difference (if any) between the ceded AG 48 reserve (including the Other Security) and the amount of Primary Security held by the cedant.

The exposed draft of the XXX/AXXX Model Regulation also provides that in the event a trust is used to satisfy the requirements applicable to covered policies to obtain credit for reinsurance, the reinsurance agreement must prohibit withdrawals or substitutions of trust assets that would leave the fair market value of the Primary Security within the trust (when aggregated with Primary Security held by or on behalf of the cedant outside the trust) below 102% of the required level at the time of the withdrawal or substitution. This provision was not present in AG 48.

The two alternative drafts of the amendments to the Amended Credit for Reinsurance Model Law include: (i) a version of the amendments that is limited in scope solely to XXX and AXXX transactions; and (ii) a version of the amendments introduced by the Connecticut Department of Insurance that also includes variable annuities and long-term care business in its scope. The latter version of the amendments, if enacted by a state, would permit that state's insurance regulator to not only adopt the XXX/AXXX Model Regulation, but to also adopt in the future any further NAIC model regulations governing credit for reinsurance of variable annuities and/or long-term care business – without any further actions required by the state's legislature.

It is the hope of the Reinsurance Task Force to have the amendments to the Amended Credit for Reinsurance Model Law and the XXX/AXXX Model Regulation approved and ready for consideration by Executive and Plenary at the NAIC's 2015 Fall National Meeting.

2. Update on Accreditation

The Accreditation Committee has been considering proposed revisions that would make the preamble to Part A of the NAIC accreditation standards applicable to captive insurers who reinsure business covering risks residing in at least two states for the following types of business: (i) XXX/AXXX policies, (ii) variable annuities valued under Actuarial Guideline 43, and (iii) long-term care insurance valued under the Health Insurance Reserves Model Regulation. Part A of the NAIC accreditation standards are applicable to "multi-state insurers"; the revisions to the preamble clarify that they do not apply to a state's domestic insurers licensed or organized under special purpose vehicle statutes or other similar statutory

constructs. With respect to captive insurers reinsuring XXX/AXXX policies, at the Summer National Meeting the Accreditation Committee adopted revisions to the preamble that would apply Part A of the NAIC accreditation standards to captives effective January 1, 2016. However, there remains a safe harbor pursuant to which the Part A of the NAIC accreditation standards will not apply to captive insurers if the reinsured policies are subject to the grandfathering requirements of AG 48 (*i.e.*, they were both (a) issued prior to January 1, 2015 and (b) ceded as part of a reinsurance arrangement as of December 31, 2014). The regulation of a captive insurer is deemed to satisfy the Part A of the NAIC accreditation standards if the applicable reinsurance transaction satisfies the XXX/AXXX Reinsurance Framework.

With respect to captive insurers reinsuring variable annuities and long-term care insurance, the Accreditation Committee adopted revisions to the preamble, noting that (a) the revisions to the preamble are not yet effective, (b) the effective date for applicability has yet to be determined, and (c) the application of the preamble to in-force variable annuity and long-term care business requires further discussion. The Accreditation Committee will continue to monitor the work of the Variable Annuities Issues (E) Working Group (the "Variable Annuities Working Group") as it considers the inclusion of grandfathering provisions and the effective date for applicability of the preamble to variable annuity and long-term care captives.

3. Review of Captive Arrangements for Variable Annuities

The Variable Annuities Working Group, established as a working group of the E Committee earlier this year and chaired by Iowa Insurance Commissioner Nick Gerhart, did not hold a meeting at the Summer National Meeting. Instead, the Variable Annuities Working Group will be conducting an interim meeting on September 10, 2015 in order to determine and finalize its direction with respect to its charge to "oversee the NAIC's efforts to study and address, as appropriate, regulatory issues resulting in variable annuity captive reinsurance transactions." The Variable Annuities Working Group is expected to review a variety of factors relevant to the assessment of captives utilized in connection with cessions of variable annuities business – including why such captives are established, the RBC and statutory accounting treatment, and the use of hedging.

The Variable Annuities Working Group has hired Oliver Wyman as its consultant, and it is expected that Oliver Wyman will present a detailed report to the Variable Annuities Working Group during the interim meeting. This report is also expected to include Oliver Wyman's recommendations as to the Variable Annuities Working Group's direction.

Separately, the Variable Annuities Working Group is currently considering a draft modification to SSAP No. 61, which, if adopted, will require an insurer ceding variable annuities business to one or more captives to provide a detailed disclosure in its statutory financial statements concerning such cession(s). This proposal, as currently drafted, requires such disclosures to first be provided in 2015 annual statutory financial statements.

During the Variable Annuities Working Group's first-ever conference call earlier this summer, it was indicated that all of the Variable Annuities Working Group's work will need to be completed and adopted by January 1, 2017. As a result, we expect the Variable Annuities Working Group to move through its tasks rapidly in an effort to meet this tight deadline.

4. Formation of New Working Group to Review Life Illustrations

At the Summer National Meeting, the Life Insurance and Annuities (A) Committee (the "A Committee") established a new working group to review life illustrations. The working group will provide recommendations to the A Committee regarding proposed changes to the Life Insurance Illustrations Model Regulation (the "Illustration Regulation"). The working group will coordinate with key stakeholders, including consumer representatives, to refine the issues that need to be addressed in any revisions to the Illustration Regulation. The working group will also need to obtain approval of the Executive Committee before it proposes any amendments to the Illustration Regulation. Following the Summer National Meeting, the A Committee set a public comment period through September 30, 2015 for stakeholders to advise regarding their issues, concerns, and what they think needs to be addressed with respect to life insurance policy illustrations.

B. PBR Update

The Principle-Based Reserving Implementation (EX) Task Force (the "PBR Implementation Task Force") held a session during the Summer National Meeting that was largely focused on preparatory work for the implementation of PBR – which is expected to occur effective as of January 1, 2017.

1. PBR Effective Date Is on the Horizon, but More Work Remains Ahead

It was reported that as of the date of the Summer National Meeting, 33 states had adopted the amendments to the NAIC Model Standard Valuation Law (the "SVL"), and three further states were expected to adopt the amendments to the SVL shortly, pending only their respective governors' signatures. These 36 states represent approximately 60% of total industry premium volume. This represents an enormous stride forward from a mere six months ago, when only approximately 20 states had adopted the amendments to the SVL, which is the main governing law to effectuate PBR. Nonetheless, much work remains ahead at the state legislature level, since in order for PBR to be implemented and its valuation manual (the "Valuation Manual") to become operative, at least 42 states representing 75% of total industry premium volume (the "Valuation Manual Operative Threshold") must adopt these amendments to the SVL.

The SVL states that in order for a state to count toward the Valuation Manual Operative Threshold, that state's law must use "substantially similar terms and provisions" to those set forth in the amendments to the SVL. However, the NAIC has not yet finalized the criteria for determining whether a state's adoption of the revised SVL meets this "substantially similar terms and provisions" test. As a result, a question remains whether all 36 states that have adopted the amendments to date will be considered by the NAIC to have adopted "substantially similar terms and provisions" to the amendments to the SVL, and will therefore count toward the Valuation Manual Operative Threshold.

The NAIC's work with respect to determining the scope of the "substantially similar terms and provisions" test remains ongoing. At the Summer National Meeting, the PBR Implementation Task Force exposed for comment an initial recommendation with respect to this item, which remains subject to further additions and revisions. The initial recommendation generally includes the following criteria: (i) whether certain provisions enacted by a state with respect to:

(a) the Valuation Manual becoming operative in the state; or (b) the requirement that the Valuation Manual be adopted via a regulation, would prevent the Valuation Manual from being adopted by the state within a specified number of months after the Valuation Manual's adoption by the NAIC; (ii) for a state that has chosen to enact the small company exemption from PBR, whether such enactment contains any of the specified differences from the small company exemption that is set forth in the Valuation Manual; and (iii) whether the state has implemented different requirements for fraternal benefit societies.

Once the criteria for determining the "substantially similar terms and provisions" are finalized, the NAIC will conduct a survey of states that have adopted the amendments to the SVL to document conformance of their laws to, and deviation of their laws from, the amended SVL. Based on this survey, the PBR Implementation Task Force will create a list of states that have adopted "substantially similar terms and provisions" to the amendments to the SVL. This list will be circulated to the Executive and Plenary, which will consider any disagreements with the list, and will determine the NAIC's final view with respect to the states that will count toward the Valuation Manual Operative Threshold.

These gating items notwithstanding, it is currently expected that PBR will become effective as of January 1, 2017. In order for this to occur, 42 states representing 75% of total U.S. premium volume must adopt the amendments to the SVL by no later than July 1, 2016.

2. Valuation Analysis (E) Working Group

During the meeting of the Principle-Based Reserving Review (EX) Working Group ("PBR Review Working Group"), a status report was received with respect to the Valuation Analysis (E) Working Group ("VAWG"), which is expected to function as a confidential body, meeting solely in regulator-to-regulator sessions, that will function as a resource for state insurance regulators for company PBR issues and guidance concerning PBR. The VAWG will report to the E Committee, and will comprise senior and experienced regulators, with a maximum of 20 represented member states.

The PBR Review Working Group has adopted a Process and Procedures Manual for the VAWG (the "VAWG Manual"), which is generally based on the Financial Analysis Working Group's purposes and procedures manual. Notably, the VAWG Manual permits the VAWG to work with outside consultants, and requires such outside consultants to comply with state confidentiality requirements.

3. PBR Pilot Program

During the meeting of the PBR Implementation Task Force, it was reported that the PBR Review Working Group has been charged with the task of creating plans for a PBR pilot program, with the goal of aiding the implementation of PBR by evaluating the regulatory processes and company submissions and making changes to the regulatory review process or instructions in the Valuation Manual prior to PBR becoming operative. The current plan is to conduct the PBR pilot program in 2016. It is expected that the PBR pilot program will be procedurally similar to the ORSA pilot program conducted in 2014.

4. **Amendments to the Financial Analysis Handbook**

The PBR Review Procedures (EX) Subgroup is working on amendments to the Financial Analysis Handbook to reflect the adoption of PBR. These amendments are currently exposed for comment until September 11, 2015.

5. **Proposed Financial Statement Disclosure – XXX/AXXX Transactions**

The Life Risk-Based Capital (E) Working Group has received comments from interested parties recommending public disclosure in a ceding insurer's annual statutory financial statements of the total adjusted capital and RBC of each of the insurer's XXX and AXXX captives that engage in reinsurance transactions subject to AG 48. No disclosure would be required in relation to captives engaging in transactions that are exempted from AG 48. The purpose of the disclosure would be to reduce potential incentives for the continued use of these captives after implementation of PBR. The disclosure would be required irrespective of whether the insurer is required to calculate or hold an RBC cushion in relation to a particular captive, and would be required to be first provided by cedants in their 2015 annual statutory financial statements.

During the meeting of the PBR Implementation Task Force, Superintendent Torti expressed his support for the disclosure. Members of the PBR Implementation Task Force will coordinate with the American Council of Life Insurers to move this initiative forward.

C. **Unclaimed Life Insurance Benefits**

The Unclaimed Benefits Model Drafting (A) Subgroup (the "Unclaimed Benefits Subgroup") was formed following the Spring National Meeting to develop a new NAIC model law to address the issue of unclaimed death benefits. The subgroup has agreed to use two proposals as the basis for drafting the NAIC's unclaimed benefits model, one created by the National Conference of Insurance Legislators ("NCOIL"), and the other by the chief regulators of the Investigations of Life/Annuity Claims Settlement Practices (D) Task Force member states that have acted as lead states for multistate targeted market conduct examinations of the 40 largest life insurers (known as the "Lead State" proposal). Approximately 19 states have already adopted the NCOIL model.

The Unclaimed Benefits Subgroup has held five calls since July 10 to discuss the areas in which the two models differ. Topics of particular interest have included (a) the frequency of required searches of the Social Security Administration Death Master File (the "DMF") (*i.e.*, quarterly versus semi-annually); and (b) the scope of the law (including whether credit life insurance, funeral pre-need products and lapsed policies should be subject to DMF search requirements).

The Unclaimed Benefits Subgroup is still considering these issues. The subgroup's planned meeting at the Summer National Meeting was cancelled because the subgroup has not made enough progress toward drafting a model law. The Unclaimed Benefits Subgroup will next meet by conference call on September 18th.

D. CDAs

The Contingent Deferred Annuity (A) Working Group (the "CDA Working Group") continues to develop a regulatory framework with respect to contingent deferred annuities ("CDAs"). As part of its ongoing review of applicable NAIC model laws and regulations, at the Summer National Meeting the CDA Working Group adopted draft revisions to the Synthetic Guaranteed Investment Contracts Model Regulation (the "GIC Model Regulation"). The revisions to the GIC Model Regulation clarify that CDAs are exempted from the scope of such regulation. This clarification, along with additional revisions to the GIC Model Regulation, was further adopted by the A Committee. The revisions will be considered for adoption by Executive and Plenary at the NAIC's 2015 Fall National Meeting.

The CDA Working Group continues to work on its guidance document *Guidance for the Financial Solvency and Market Conduct Regulation of Insurers Who Offer Contingent Deferred Annuities* (the "CDA Guidance Document"). Discussion at the Summer National Meeting centered around the non-forfeiture or cancellation benefits that may be applicable to CDAs. These discussions followed the CDA Working Group's previous request to the life insurance industry to develop a cancellation benefit that could be available to an individual insured by a CDA. Three types of cancellation benefits were proposed: (1) a replacement annuity (either a single premium immediate annuity, a deferred income annuity, or a variable annuity with a guaranteed lifetime withdrawal benefit or a guaranteed minimum income benefit), (2) a lump sum payment, or (3) a return of fees. At the Summer National Meeting, the CDA Working Group discussed draft language for inclusion in the CDA Guidance Document with respect to the three proposed non-forfeiture/cancellation benefits. The draft CDA Guidance Document noted that different cancellation benefits might be appropriate given the reason for cancellation and noted that at least one cancellation benefit should be included in each CDA. During the discussion, it was noted that a CDA is often purchased by individuals who do not want to purchase an annuity, and if that is the only cancellation benefit then such individuals may effectively be forced into obtaining an annuity; industry members indicated that they would consider a requirement that where a CDA's cancellation benefit is a replacement annuity, another cancellation benefit would also be required to be offered. The CDA Working Group members also noted that mere inclusion of a cancellation benefit was insufficient to guarantee approval of the CDA - the cancellation benefit also needs to be a reasonable option. The CDA Working Group indicated that it will continue to review this issue on a future conference call.

E. Briefly Noted

1. Report Exposed on Corporate Bond Base Factors for Life Companies

The Investment RBC Working Group exposed for comment a recommendation of new corporate bond base factors for life insurers, which was proposed by the American Academy of Actuaries (the "Academy") C1 Work Group in its report entitled, "Model Construction and Development of RBC Factors for Fixed Income Securities for the NAIC's Life Risk-Based Capital Formula," dated August 3, 2015 (the "Academy Report"). The NAIC's Life Risk-Based Capital Formula, or the C1 component, creates minimum capital standards for life insurance companies which reflect certain risks that could affect surplus levels, such as credit risk, deferral risk, subordination risk and event risk. The Academy Report proposes new C1

corporate bond base factors for life insurers which would increase the number of factors from six to 14 in order to eliminate the large jumps in the current factors. It was acknowledged at the E Committee meeting that addressing this issue will constitute a very busy workstream, and there will be a lot of coordination with and referrals to other working groups.

III. TOPICS OF INTEREST TO P&C INSURERS

A. TRIA

The federal Terrorism Risk Insurance Program Reauthorization Act of 2015 ("TRIPRA") requires, among other things, the Department of the Treasury to collect certain data in 2016 relating to 2015 terrorism insurance. The Terrorism Insurance Implementation (C) Working Group ("TRIA WG") met via conference calls between the Spring National Meeting and the Summer National Meeting to discuss the possibility of insurance regulators collecting such data. On June 19, 2015 the TRIA WG released for comment a blanks proposal (the "Blanks Proposal") that would collect 2015 data through insurance companies' annual financial statements. The TRIA WG referred a revised version to the Blanks (E) Working Group ("Blanks WG") for review at the Summer National Meeting.

At the Summer National Meeting, interested parties continued to voice their concerns with the Blanks Proposal. Nonetheless, the Blanks WG adopted the Blanks Proposal. However, it later emerged in the TRIA WG session that FIO was not intending to rely on the NAIC's work in order to collect the data required by TRIPRA. NAIC staff reported that FIO had advised it will be releasing a new related rule later in the year, and will perform its own data collection in 2016. Director McRaith of FIO attended the TRIA WG meeting, and stated that he thinks there was a miscommunication in which some work was undertaken by the NAIC that FIO was not aware of. He said he wants to work together with the NAIC as well as possible, does not want to duplicate efforts, and welcomes NAIC engagement and direct engagement with regulators (individually and as part of the broader stakeholder community). However, he noted that he has a very specific statute to comply with, and it may be that they therefore have different underlying goals. The question was raised as to whether FIO had seen the Blanks Proposal, and it was agreed that if not it should be shared with Director McRaith immediately.

Following this discussion, the Blanks Proposal was voted down by a large majority at the Accounting Practices and Procedures (E) Task Force session. It was later reported in the Property and Casualty Insurance (C) Committee ("C Committee") meeting that, in place of the Blanks Proposal, data calls will be carried out on a state-by-state basis for 2015, separately from FIO. Superintendent Torti announced that Texas, Mississippi, and perhaps California are already planning to do data calls, and he suggested that states choosing to do a data call use the Blanks Proposal to do so. He stated that the blanks issue will be addressed again in 2016.

B. Possibility of Re-Opening Model on Lender-Placed Insurance

In May, the C Committee voted to establish a new Creditor-Placed Insurance Model Act Review (C) Working Group (the "CPI Working Group"), to be chaired by Mr. David Altmaier, Deputy Commissioner of the Florida Office of Insurance

Regulation. The charge for the CPI Working Group is to review information from the 2012 public hearing on lender-placed insurance and determine if changes to the Creditor-Placed Insurance Model Act (the "CPI Model Act") are warranted. The NAIC had approved re-opening the CPI Model Act at the NAIC's 2013 Spring National Meeting.

The CPI Working Group held a call on August 6th to discuss the possibility of re-opening the CPI Model Act. They noted that the CPI Model Act was historically intended to address lender-placed auto insurance rather than real property, and members of the CPI Working Group stated that part of their task would be to consider whether real property and/or flood coverage should be added to the scope of the CPI Model Act. Mr. Birny Birnbaum, of the Center for Economic Justice, recommended that the CPI Working Group consider withdrawing the CPI Model Act entirely or revising it, saying it is only currently adopted in three states, is deficient, and conflicts with actions taken in New York and Florida, which are the states that have been the most active in regulating this area. It was noted that three insurers write the majority of such coverage in the United States.

At the Summer National Meeting, the C Committee voted to extend the timeframe for revising the CPI Model Act for another year. Mr. Birnbaum reiterated his hope that the current CPI Model Act would be withdrawn and the CPI Working Group either start from scratch or decline to promulgate a new CPI Model Act, leaving the issue to the individual states' practices. Mr. Birnbaum asked for the C Committee's support and instruction to the CPI Working Group that they withdraw the model, but the chair of C Committee declined to do so.

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September 9, 2015

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