

CLIENT ALERT

NAIC Report: 2019 Spring National Meeting

April 22, 2019

AUTHORS

**Leah Campbell | Michael Groll | Donald B. Henderson, Jr. | Allison J. Tam
Elizabeth B. Bannigan**

The 2019 Spring National Meeting of the National Association of Insurance Commissioners was held in Orlando, Florida on April 6-9, 2019.

In his inaugural National Meeting as NAIC President, Maine Insurance Superintendent Eric A. Cioppa emphasized the significance of the NAIC's State Ahead plan, a three-year blueprint for the NAIC that was introduced in 2018. The State Ahead plan focuses on advancing a state-based policy agenda and enhancing the NAIC's data-sharing and technology platforms. Superintendent Cioppa also highlighted the NAIC's 2019 regulatory priorities: (1) ensuring that policyholders receive the benefits of their long-term care insurance policies when they need them by reviewing the solvency position of long-term care insurers, (2) promoting a higher standard of care in the sale of annuity products by amending the Suitability in Annuity Transactions Model Regulation, (3) improving health insurance market stability, (4) continuing to address climate-related risk by creating incentives for resiliency, (5) protecting the industry from the rising incidence of cyber-attacks, (6) enhancing regulators' assessment of the financial strength of insurers with the continued development of a group capital calculation tool, (7) fostering stable financial markets by analyzing the impact of broader financial markets and economy through the Macro-Prudential Initiative, and (8) engaging globally, both through standard-setting organizations and through regional and bilateral engagement.

This report summarizes some of the key activities at the Spring National Meeting and, as indicated, NAIC interim meetings and conference calls and other developments leading up to the meeting that may be of interest to our clients in the insurance industry.

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GLOSSARY

Definitions used in this report include:

- “Accreditation Committee” means the NAIC’s Financial Regulation Standards and Accreditation (F) Committee.
- “Certified Reinsurer” means a reinsurer from a Qualified Jurisdiction eligible to provide less than one hundred percent (100%) or no reinsurance collateral.
- “ComFrame” means the Common Framework for the Supervision of Internationally Active Insurance Groups being developed by the IAIS.
- “Credit for Reinsurance Models” means the NAIC Credit for Reinsurance Model Law and NAIC Credit for Reinsurance Model Regulation.
- “Executive and Plenary” means all of the U.S. state insurance commissioners in plenary session along with the NAIC’s Executive (EX) Committee.
- “FSB” means the Financial Stability Board, a non-profit international body, currently composed of 59 representatives from 25 jurisdictions (including representatives from international financial institutions and international standard-setting, regulatory, supervisory and central bank bodies) that monitors and makes recommendations about the global financial system.
- “FSOC” means the Financial Stability Oversight Council of the United States Department of the Treasury.
- “G-SII” means Global Systemically Important Insurer, as designated by the FSB.
- “IAIG” means an internationally active insurance group.
- “IAIS” means the International Association of Insurance Supervisors.
- “NAIC” means the National Association of Insurance Commissioners.
- “NFIP” means the National Flood Insurance Program.
- “P&P Manual” means the Purposes and Procedures Manual of the NAIC Investment Analysis Office.
- “Qualified Jurisdiction” means a non-U.S. jurisdiction that the NAIC deems to be included on its list of “Qualified Jurisdictions” using the *NAIC Process for Developing and Maintaining the NAIC List of Qualified Jurisdictions*, whereby the NAIC evaluates the appropriateness and effectiveness of the reinsurance supervisory system within

such non-U.S. jurisdiction through an evaluation methodology that considers the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the United States. The NAIC List of Qualified Jurisdictions is not binding on the states and each state may also evaluate a non-U.S. jurisdiction to determine if it is a Qualified Jurisdiction. Although individual states must consider the NAIC List of Qualified Jurisdictions, the ultimate regulatory authority to recognize a Qualified Jurisdiction resides solely in each state.

- “RBC” means risk-based capital.
- “ReFAWG” means the NAIC Reinsurance Financial Analysis (E) Working Group.
- “SEC” means the United States Securities and Exchange Commission.
- “SIFI” means a systematically important financial institution designated by FSOC.
- “U.S./E.U. Covered Agreement” means the Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance entered into by such parties on September 22, 2017.
- “U.S./U.K. Covered Agreement” means the Bilateral Agreement Between the United States and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance entered into by such parties on December 11, 2018.

I. Topics of General Interest

a. Credit for Reinsurance

The proposed revisions to Credit for Reinsurance Models establish a framework for implementing the U.S./E.U. and U.S./U.K. Covered Agreements' zero collateral provisions and apply the same or similar standards to other non-U.S. reinsurers as well as U.S.-domiciled insurers. As proposed, zero collateral provisions would apply to qualifying reinsurers from "Reciprocal Jurisdictions," which would include: (i) U.S. jurisdictions that are accredited by the NAIC ("NAIC RJs"); (ii) non-U.S. jurisdictions that enter into a covered agreement with the United States (i.e., currently the E.U. and the U.K.) ("Covered Agreement RJs"); and (iii) non-U.S. Qualified Jurisdictions compliant with the conditions of the U.S./E.U. and U.S./U.K. Covered Agreements that are deemed reciprocal by a state insurance commissioner ("QJ RJs"). The current Credit for Reinsurance Models allow a Certified Reinsurer from a Qualified Jurisdiction to post reduced collateral depending on the Certified Reinsurer's financial strength rating. The NAIC evaluates and maintains a list of Qualified Jurisdictions and the ReFAWG assists states in reviewing applications from reinsurers seeking to obtain Certified Reinsurer status. Applications from reinsurers in Qualified Jurisdictions are submitted to a single state, and if approved, other states have the discretion to defer to the applicant state's certification and the collateral level it assigns to the newly recognized Certified Reinsurer. The NAIC anticipates developing criteria and a process to identify QJ RJs similar to the designation process undertaken by the states and NAIC in connection with Qualified Jurisdictions.

At the Spring National Meeting, industry commentators criticized revisions exposed by the Reinsurance (E) Task Force in March for failing to cure the perceived disparate treatment of QJ RJs under the revisions to the Credit for Reinsurance Models. The revisions allow state insurance commissioners to impose additional and undefined requirements on QJ RJs and their qualifying reinsurers, which may be different from, and in addition to, the requirements for NAIC RJs and Covered Agreement RJs and their respective qualifying reinsurers. The interested parties noted that the NAIC has already developed a well-defined and thorough review process for a jurisdiction to gain Qualified Jurisdiction status involving both the applicant state and the ReFAWG. Interested parties stated that vesting state insurance commissioners with the discretion to impose additional and undefined factors necessary for a Qualified Jurisdiction to gain the status of a QJ RJ could result in the arbitrary application of the state insurance commissioners' discretion outside of this formal review process. In an effort to avoid this potential ramification, industry commentators urged the Reinsurance (E) Task Force to require that any additional criteria imposed by a state insurance commissioner be consistent with the conditions of in-force covered agreements.

State insurance commissioners may also determine that a QJ RJ no longer qualifies as a Reciprocal Jurisdiction and consequently reinsurers from that jurisdiction would lose their zero-collateral eligibility. In contrast, state insurance commissioners may not revoke the Reciprocal Jurisdiction status of NAIC RJs and Covered Agreement RJs. Industry participants at the Spring National Meeting called for the development of a transparent process and defined criteria for a state insurance commissioner's revocation of a QJ RJ's status as a Reciprocal Jurisdiction.

Commentators noted that the latitude afforded to state insurance commissioners under the revisions incentivizes a Qualified Jurisdiction to enter into a covered agreement with the United States, as opposed to becoming a QJ RJ, in order to gain the certainty inherent in the Covered Agreement RJ status. The Reinsurance (E) Task Force justified the discretion afforded to state insurance commissioners to recognize and police QJ RJs, reasoning that this discretion may ease the way for states when attempting to enact the revisions to the Credit for Reinsurance Models into law through the legislature.

b. Group Capital

i. NAIC Field Testing Template Nears Completion

The Group Capital Calculation (E) Working Group continues to develop a group capital calculation (“GCC”) tool using an RBC aggregation methodology. The group capital project is one of the NAIC’s top priorities for 2019. Following the exposure of the draft GCC testing template last fall, the Working Group held three interim conference calls in March to further refine the template and the testing process. At the Spring National Meeting, the Working Group confirmed that the field testing exercise is on track to begin on or around May 1, 2019. The NAIC intends to test year-end 2018 data of thirty insurance groups that have volunteered for the project, and volunteers will have ninety days to complete the template, followed by a sixty-day review period for a group’s lead state regulator. During a discussion regarding confidentiality, Working Group Chair and Florida Insurance Commissioner David Altmaier indicated that he would like to share the field test results with interested parties, perhaps by aggregating the data, provided that the volunteers’ confidentiality is not compromised in the process. Commissioner Altmaier said that it is more important to take extra time to modify the GCC and respond to outstanding comments (e.g., the scope of a group) than to finalize the project this year.

ii. International Developments

Superintendent Cioppa listed international activity as one of the NAIC’s top eight priorities for 2019, noting that the U.S. must interact globally through regional and bilateral engagement. He stated that there is more work to be done to achieve the NAIC’s following three goals: (i) making improvements to the International Capital Standard (“ICS”) for U.S. companies that may have to comply with the ICS or ICS-like standards in other markets (discussed below); (ii) ensuring comparable outcomes for the ICS and the U.S.’s aggregation method; and (iii) engaging bilaterally and securing mutual recognition of our system with certain nations, such as the E.U., U.K., Japan, Bermuda, Switzerland and others. In a strong message to the international community, Superintendent Cioppa noted that the NAIC does not intend to adopt an international capital standard that does not fit with, and add value to, the U.S. system of regulation.

1. Update on ICS

The NAIC continues to evaluate the risk-based global ICS being developed by the IAIS, as part of ComFrame, for IAIGs (including G-SIIs). The ICS uses a single reference method based on a consolidated Market Adjustment Valuation (“MAV”) approach. In contrast, as noted above, the NAIC is using an aggregation method for its GCC tool. The IAIS will begin conducting additional ICS field testing on April 30, 2019, and it will release a consultation document with further revisions to ComFrame in August 2019. The IAIS plans to adopt ComFrame, which includes ICS Version 2.0, at its Annual General Meeting in November 2019. This will be followed by a five-year monitoring period starting in 2020, during which ICS Version 2.0 will be reported confidentially to an IAIG’s group-wide supervisor and it will not be used as a group-wide prescribed capital requirement (“PCR”). At the end of the monitoring period, the IAIS hopes to be in a position “to assess whether the aggregation method [(e.g., the U.S.’s GCC)] provides comparable, i.e., substantially the same (in the sense of the ultimate goal), outcomes to the ICS.” The formal implementation of ICS Version 2.0 starts in 2025, at which time it will be a PCR for IAIGs.

2. ICS Discussion at Spring National Meeting

At the NAIC’s International Insurance Relations (G) Committee meeting, Committee Chair and Tennessee Commissioner of Commerce and Insurance Julie Mix McPeak invited representatives of six insurance companies to answer questions on ICS Version 2.0. With respect to outstanding design issues related to ICS Version 2.0, the representatives identified several issues, including the ICS’s flawed approach regarding the valuation of liabilities, non-default spread risk, currency risk, operational risk, and the erroneous treatment of capital within an insurance group as fungible, with one representative noting that the most pressing issue is whether the IAIS will recognize the comparability of the aggregation approach, such as the one utilized by the GCC. Another representative stressed the importance of the comparability issue, noting that if the IAIS does not consider the U.S.’s aggregation approach to be outcome-equivalent to the ICS, this would be burdensome as insurance groups could be subject to multiple capital standards.

One representative also noted that it is hard to assess the impact without having seen the final ICS version, while another representative stated that the ICS’s use of the MAV approach for reporting balance sheet information is detrimental to companies that offer guaranteed products since it does not align with the nature of that business. In addition, the representatives would like the IAIS to recognize that there are several effective methods for recognizing capital needs in an insurance group, such as Solvency II and the aggregation approach. They are troubled that the ultimate goal of ICS is “one tool for all jurisdictions.”

c. Systemic Risk

i. Update on IAIS's Draft Systemic Risk Framework

As previously reported in our [Fall 2018 NAIC Report](#), the IAIS released a draft of the Holistic Framework for Systemic Risk in the Insurance Sector (the "Framework") for public consultation on November 14, 2018. IAIS Secretary General Jonathan Dixon previously characterized the Framework as a key component of the IAIS's post-financial crisis reform measures along with ComFrame/ICS. The Framework continues the IAIS's move away from the entities-based approach and toward an activities-based approach ("ABA") with an enhanced set of policy measures to address activities and exposures that can lead to systemic risk in the insurance sector as a whole. One key element of the Framework is a global annual monitoring exercise by the IAIS designed to detect the possible build-up of systemic risk in the global insurance sector.

In January, the (G) Committee submitted comments on the Framework, including comments on the proposed scope of application and on portions of the document that appear to be overly prescriptive.

At the Spring National Meeting, Mr. Jay Muska of the IAIS indicated that the proposed Framework has generally been supported by industry members. At the (G) Committee meeting, several of the invited interested parties confirmed their overall support of the Framework since they favor the ABA, although some were concerned about the broad definition of systemic risk. The interested parties would also like more certainty that local regulators will be able to implement the Framework. The IAIS is revising the Framework based on the public consultation feedback and it intends to adopt the Framework at its Annual General Meeting in November 2019, to be followed by implementation in 2020 and the IAIS's review of the Framework in November 2022.

ii. Update on NAIC's Macro-Prudential Initiative

Superintendent Cioppa listed the NAIC's Macro-Prudential Initiative ("MPI") as one of its top eight priorities for 2019. The MPI's purpose is to enhance risk identification efforts by building on the state-based regulation system. As previously reported in our [Fall 2018 NAIC Report](#), the NAIC, like the IAIS, is focusing on financial, economic and other common risk exposures in the insurance sector. Superintendent Cioppa identified the four primary areas of the MPI:

(i) liquidity, (ii) resolution and recovery, (iii) capital stress-testing and (iv) counterparty exposure.

As part of the MPI, the NAIC is continuing to develop a liquidity stress-testing framework for certain life insurers as a regulatory tool. Justin Schrader, Chief Financial Examiner at the Nebraska Department of Insurance and Chair of the Liquidity Assessment (EX) Subgroup, provided an update to the Financial Stability (EX) Task Force. Last fall, the scope criteria for determining which life insurers should be subject to the liquidity stress test were exposed for comment. Under these criteria, which were adopted by the Subgroup in February 2019, twenty-three large life insurers are in scope. The Subgroup has created an informal study group that held several meetings this spring during which the following topics

were discussed: (i) which questions should be addressed by the liquidity stress test; (ii) stress test scenarios; (iii) time horizons for the liquidity stress test (e.g., one month, three months); and (iv) which entities within an insurance group should be included in the liquidity stress test (e.g., material entities). The study group will continue to work through these items and it will make a presentation to the Subgroup in June 2019. The Subgroup is expected to present a high-level overview of the liquidity stress-testing framework at the 2019 Summer National Meeting.

iii. U.S. Federal Developments

1. FSOC Update

On March 6, 2019, the FSOC issued for public comment proposed guidance regarding a revised process for designating non-bank SIFIs. The proposed guidance would substantially change the FSOC's existing procedures. Key changes include the following: (i) in furtherance of its goal to identify and address potential risks to U.S. financial stability, the FSOC would use a process that emphasizes the ABA, under which "the [FSOC] will examine a diverse range of financial products, activities, and practices that could pose risks to financial stability," such as activities that "are often identified in the [FSOC's] annual reports, and include activities related to the extension of credit, maturity and liquidity transformation, market making and trading, and other key functions critical to support the functioning of financial markets"; (ii) prior to making a determination, the FSOC would perform a cost-benefit analysis (i.e., "[t]he FSOC will make a determination . . . only if the expected benefits to financial stability from the determination justify the expected costs that the determination would impose"); (iii) the current three-stage designation process would be shortened to two stages by eliminating current stage one (i.e., applying a set of uniform quantitative metrics to a group of non-bank financial companies), since this stage "generated confusion among firms and members of the public and is not compatible with the proposal to prioritize an [ABA]"; (iv) the proposed changes would increase the FSOC's engagement with companies and their existing regulators, thereby "allowing a company under review to provide the [FSOC] with relevant information"; and (v) the proposed guidance clarifies the "off-ramp process" for companies post-designation.

At the Financial Stability (EX) Task Force meeting, Vice Chair of the Task Force Superintendent Cioppa discussed this proposed guidance. He identified three key aspects to the FSOC's proposed guidance: (i) a shift to prioritize the ABA, (ii) changing the designation process to allow for more transparency, and (iii) creating a clearer framework for the designation process and the post-designation process. Several interested parties expressed their favorable impression of the proposed guidance since it represents a more effective way to deal with systemic risk. More specifically, they are pleased that the process requires increased coordination with state insurance regulators, allows for a company's off-ramp post-designation and requires the FSOC to perform a cost-benefit analysis prior to making a determination. The interested parties would, however, prefer more clarity regarding application of the ABA and the metrics used to determine if a non-bank financial company has crossed the designation threshold.

The FSOC's public comment period closes on May 13, 2019, and Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance and Chair of the Task Force, encouraged interested parties to provide their feedback on the FSOC's proposed guidance so that the Task Force can decide whether to submit comments.

2. Third FSAP for U.S. is Approaching

The International Monetary Fund ("IMF") is preparing for the third Financial Sector Assessment Program ("FSAP") of the United States. 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 Insurance Core Principles promulgated by the IAIS. The two previous FSAPs occurred in 2009–10 and 2014–15.

d. Innovation and Technology

i. Data Accuracy and Predictive Modeling

The NAIC's innovation and technology groups continued their focus on data accuracy and predictive modeling in insurance underwriting. Based on actions taken during the Spring National Meeting, the review of insurers' use of external data and data analytics in accelerated life underwriting will be consolidated in the Life Actuarial (A) Task Force. In particular, the Life Actuarial (A) Task Force will study the use of data analytics, propose appropriate state guidance or best practices, and consider state preparedness for assessing and regulating such big-data-based underwriting methods. With this work being shifted to the Life Insurance and Annuities (A) Committee, the Big Data (EX) Working Group intends to focus its efforts in 2019 on the use of big data in insurer claim practices, such as claim valuation and antifraud efforts.

The Big Data (EX) Working Group received a recommendation from NAIC staff to research the skills and resources required to assist the states in reviewing predictive models. NAIC management recommended that the NAIC (1) hire one full-time employee devoted to providing technical support for insurance regulators in the review of actuarial models; (2) develop a tool for state insurance departments to share information on model reviews; and (3) develop a training and education program. The NAIC is currently conducting research on the development of the information-sharing tool.

The Working Group also received a report from the Casualty Actuarial and Statistical (C) Task Force ("CASTF") which is preparing a best practices white paper concerning data sources, company data selection, predictive models and final rate filings with states. The purpose of the white paper is to create a set of common regulatory goals to: (1) create uniformity of review across jurisdictions, emphasizing, though, that the best practices document is not intended to be a one-size-fits-all document; and (2) assist the states in identifying the pertinent aspects of a rate filing that contains predictive models. The CASTF is incorporating recent public comments into the white paper and expects to expose the revised draft on an interim conference call in May 2019. At the Spring National Meeting, the CASTF noted policy issues that were highlighted during the white paper exposure period that the CASTF believes should be referred to and addressed by the Big Data (EX) Working Group. These policy issues include confidentiality concerns, whether the scope of the white paper is broad

enough to cover predictive modeling in all lines of business, a debate between causality and correlation, and consumer transparency issues related to the complexity of predictive modeling. The CASTF intends to complete the white paper by the 2019 Fall National Meeting.

ii. Cybersecurity

The Innovation and Technology (EX) Task Force heard a report from Director for the South Carolina Department of Insurance Raymond G. Farmer on cybersecurity initiatives, including enactment of the Insurance Data Security Model Law. The Insurance Data Security Model Law was adopted by the NAIC membership in October 2017 and updates state insurance regulatory requirements relating to data security, the investigation of a cyber event and the notification to state insurance commissioners of cybersecurity events at regulated entities. The Insurance Data Security Model Law is not an NAIC state accreditation standard, but remains a priority of the NAIC. As of the date of this report, four states have adopted the Insurance Data Security Model Law or a law similar to it (i.e., South Carolina, Ohio, Michigan and Mississippi) and four other states are considering adoption of the Insurance Data Security Model Law this legislative session. Director Farmer reiterated that the Insurance Data Security Model Law is the best way states can lead in this effort and recommended that every state now consider adoption. At the Opening Session of the Spring National Meeting, Superintendent Cioppa noted that the Insurance Data Security Model Law “is our best defense” against the rising incidence of cyber-attacks and cyber breaches.

e. New Working Group to Consider Insurance Business Transfer and Division Laws

In recent years, several U.S. states have enacted insurance business transfer (“IBT”) legislation or promulgated regulations allowing an insurer to transfer its business, or a book of business, to another entity without the need for individual policyholder consent. Separately, a few other U.S. states have taken a step in the direction of corporate reorganization by allowing an insurer to divide into separate companies.

At the meeting of the Financial Condition (E) Committee at the 2018 Fall National Meeting, Rhode Island Superintendent of Banking and Insurance Elizabeth Dwyer noted that there are currently no standards among the states for how IBT plans or division plans should be reviewed, and requested that the (E) Committee form a new working group to review the various state IBT frameworks and division laws and recommend specific standards for review. On February 19, 2019, the Financial Condition (E) Committee formed a new working group (and a subgroup to focus on accounting issues) to consider issues related to IBT and division laws.

The Restructuring Mechanisms (E) Working Group’s charges are to: (1) evaluate and prepare a white paper that: (a) addresses the perceived need for restructuring statutes and the issues those statutes are designed to remedy and consider alternatives that insurers are currently employing to achieve similar results; (b) summarizes the existing state restructuring statutes; and (c) addresses the legal issues posed by an order of a court (or approval by an insurance

department) in one state affecting the policyholders of other states; (2) review and propose changes to the Guaranty Association Model Act to ensure that policyholders that had guaranty fund protection prior to a restructuring continue to have it after the restructuring; (3) review and propose changes to the Protected Cell Companies Model Act to allow for restructuring mechanisms; and (4) develop financial solvency and reporting requirements for companies in run-off. The fourth charge will be addressed by the Restructuring Mechanisms (E) Subgroup.

The Working Group is co-chaired by Superintendent Dwyer and Oklahoma Deputy Commissioner Buddy Combs. At the Spring National Meeting, the Working Group heard presentations from various members of the industry, both in support of and in opposition to the IBT and division laws. Industry representatives spoke in support of the laws and explained that they provide restructuring options for insurance run-off portfolios that enhance capital efficiency and sufficiency of the industry. Some concerns with the IBT and division laws discussed at the Spring National Meeting included questions regarding licensing of newly formed companies and the impact on guaranty association protection. The Working Group will receive more presentations on interim conference calls and did not mention when it expects to complete its white paper.

II. Topics of Interest to the Life Insurance Industry

a. Update on Potential Revisions to the Suitability in Annuity Transactions Model Regulation

Superintendent Cioppa listed suitability for annuity products as one of the NAIC's top eight priorities for 2019, noting the dual goals of a higher standard of care and uniformity. He referred to the proposed revisions to the Suitability in Annuity Transactions Model Regulation as a work in progress since the insurance industry must coordinate with securities regulators on this topic in order to create "a strong, credible model."

As background, the Annuity Suitability (A) Working Group has been developing proposed revisions to the Suitability in Annuity Transactions Model Regulation that are intended to elevate the standard of care in existing suitability standards for the sale of annuities and to make consumers aware of any material conflicts of interest. An updated draft of the proposed revisions was exposed for comment through mid-February 2019.

At the Life Insurance and Annuities (A) Committee meeting, an interested party presented an overview of the rule proposed by the SEC on April 18, 2018, entitled "Regulation Best Interest." The proposed rule would establish a "best interest" standard of conduct for securities brokerage firms and their personnel when recommending a securities transaction or investment strategy involving securities to a retail customer. Regulation Best Interest sets forth the obligations of a broker-dealer related to disclosure, care and conflict of interest. "[I]n the supplementary materials, the SEC states that the proposed rule will 'enhance' professional standards, and that 'best interest,' 'incorporates and goes beyond a broker-dealer's existing suitability obligations under the federal securities laws.'" One issue is that the SEC has not provided a definition of "best interest" and Doug Ommen, Iowa Insurance Commissioner and Chair of the Life

Insurance and Annuities (A) Committee, like many interested parties, “want[s] to know what it means.” The SEC conducted a hearing on the proposed rule in March and it is expected to promulgate a final rule in September 2019.

Following the presentation, a motion was adopted under which the Annuity Suitability (A) Working Group will consider the information presented by the interested party as well as comments received on the proposed revisions to the model regulation. The Working Group will try to complete its work to revise the Suitability in Annuity Transactions Model Regulation as soon as possible and it will hold an in-person interim meeting in May or June.

b. Long-Term Care Insurance

Superintendent Cioppa referred to long-term care (“LTC”) insurance as a top priority for the NAIC, noting that the “market dynamics of longer lifespans, increasing cost of care and underpriced legacy policies have been an ongoing challenge to market stability.” Commissioner Altmaier echoed this sentiment at the Long-Term Care Insurance (B/E) Task Force meeting. During the Executive and Plenary meeting, the membership of the NAIC voted unanimously to create an executive-level task force to address LTC insurance market stability. The Long-Term Care Insurance (EX) Task Force will coordinate with the existing Long-Term Care Insurance (B/E) Task Force and will report to the Executive (EX) Committee. Its first meeting is tentatively scheduled to be held in June at the NAIC Insurance Summit. The new task force is charged “with developing a consistent national approach for reviewing long-term care insurance rates that result in actuarially appropriate increases [of rates] being granted by the states in a timely manner, and eliminates cross-state rate subsidization.” The goal is for the new task force to deliver a proposal to the Executive (EX) Committee by the 2020 Fall National Meeting.

In a presentation to the Long-Term Care Insurance (B/E) Task Force on LTC insurance trends, Doug Slape, Deputy Commissioner of the Texas Department of Insurance, said the Financial Analysis (E) Working Group wrote a high-level paper last year on issues companies are facing in the LTC insurance space. He referred to the field as a shrinking market since 170 companies used to write LTC insurance, whereas there are now only about a dozen companies doing so. Deputy Commissioner Slape said the biggest challenge for these companies is the rate increase environment and the inconsistencies among states, noting that we need to recognize the needs of the industry and we need to get rates right.

III. Topics of Interest to the P/C Insurance Industry

a. Catastrophe Insurance (C) Working Group

i. Update on National Flood Insurance and Private Flood Insurance

Among the NAIC’s top eight priorities for 2019, Superintendent Cioppa listed climate related risk engagement, which includes the NAIC’s commitment to a long-term reauthorization of the NFIP and a robust private flood insurance market. The NFIP is currently operating under its eleventh extension through May 31, 2019.

The Catastrophe Insurance (C) Working Group has been working on a best practices document regarding private flood insurance. The purpose of the document is to provide state regulators with best practices on how to develop and/or expand into the private flood insurance market. The current draft covers federal action, state action, ways an insurance department can facilitate a well-functioning market, education, outreach, steps that have already been taken by other states and barriers to the development of the private flood insurance market. The Private Flood Best Practices drafting group is currently working on a second draft of the best practices document to be delivered to the Working Group on an interim conference call. The Working Group plans to adopt the best practices document at the 2019 Summer National Meeting.

IV. Briefly Noted

a. Update on Accreditation Standards

The Accreditation Committee received a referral from the National Treatment and Coordination (E) Working Group, which is charged with monitoring usage of the Form A database and implementation of company licensing best practices, to revise Part D of the accreditation standards regarding the Organization, Licensing and Change of Control of Domestic Insurers. At the Spring National Meeting, the Accreditation Committee exposed the following revisions to Part D for thirty days: (1) update the scope of Part D to include primary applications for redomestications, (2) update timing guidelines to rely on department policies along with state statute or regulation or the Company Licensing Best Practices Handbook, (3) add a new standard for the scope and performance of procedures for redomestications which includes elements of a quality review in addition to communication expectations, (4) update the process-oriented guidelines for Form A filings in Part D to include documenting an assessment of business plans and the quality and expertise of key persons, (5) require updates to the Form A database at a minimum of every six months for open filings, and (6) update the title of Part D to “Primary Licensing, Redomestications and Change of Control.”

b. Valuation of Securities (E) Task Force

The Valuation of Securities (E) Task Force adopted an amendment to the P&P Manual to provide comprehensive instructions for fund investments. The amendment expands the existing framework to SEC-regulated investment companies organized as closed-end management companies and unit investment trusts to align the credit assessment framework with statutory accounting principles. Private funds would still be reported as joint ventures and the annual financial statement instructions will continue to permit life and fraternal companies to report an NAIC designation for fixed-income investments. The Task Force also adopted a referral to the Capital Adequacy (E) Task Force to consider the impact of this amendment for RBC purposes.

c. Guidelines on Nonadmitted Accident and Health Coverages Adopted by Executive and Plenary

At the 2018 Fall National Meeting, the Property and Casualty (C) Committee adopted the Guidelines on Nonadmitted Accident and Health Coverages (the “Guidelines”) developed by the Surplus Lines (C) Task Force meant to provide state guidance for regulation of the nonadmitted accident and health market. As previously reported, the purpose of the Guidelines is to assist states in their review of existing laws which may explicitly prohibit the export of accident and health risks or generally authorize the export only of property and casualty risks. At the Spring National Meeting, the Executive and Plenary adopted the Guidelines.

d. Producer Licensing (D) Task Force

The Producer Licensing (D) Task Force received a request from the Surplus Lines (C) Task Force to consider whether the requirement of a resident producer to hold underlying property/casualty licenses before a surplus lines license is issued should be expanded to permit an accident and health license to fulfill this requirement. The Producer Licensing (D) Task Force will take action on this request on an interim conference call, with the goal of making a final decision by the Summer National Meeting. If it is determined that the underlying licensure requirement to qualify for a surplus lines license should be expanded to include accident and health licenses, the Surplus Lines (C) Task Force recommends that the State Licensing Handbook be changed to reflect the inclusion.

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If you have any questions regarding this client alert, please contact the following attorneys or the attorney with whom you regularly work.

Leah Campbell

212 728 8217

lcampbell@willkie.com

Michael Groll

212 728 8616

mgroll@willkie.com

Donald B. Henderson, Jr. Allison J. Tam

212 728 8262

dhenderson@willkie.com

212 728 8282

atam@willkie.com

Elizabeth B. Bannigan

212 728 8135

ebannigan@willkie.com

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