



NAIC Summer National Meeting 2014



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An Update on the 2014 NAIC Summer National Meeting

Meetings were held from Thursday, August 14, through Tuesday, August 19, 2014 in Louisville, Kentucky. Related sessions included an International Capital Standards Forum and the Center for Insurance Policy and Research (CIPR) held a Summer Event: Car-Sharing and Ride-Sharing Issues. This update does include a summary of the International Capital Standards Forum.

The NAIC meetings provided various information on issues related to all regulated entities in the United States and for various concerns related to insurance supervision in the United States.

This overview of the Summer National Meeting by First Consulting & Administration, Inc. is intended as a brief summary of some of the meetings, decisions and issues addressing the insurance industry during the Summer National Meeting.

Commercial Ride-Sharing and Car-Sharing Issues

This two hour session was sponsored by the Center for Insurance Policy and Research (CIPR) with over 300 hundred people in attendance. The session covered insurance-related issues with a panel of subject matter experts. The panel included representatives from RelayRides, Uber Technologies, two insurance companies, two insurance commissioners, a consumer representative, a representative of the National Limousine Association and California Insurance Commissioner Dave Jones was the moderator.

Car-sharing is analogous to a traditional rental car situation where the driver is the renter of the vehicle. Reservations are scheduled for the use of the vehicle and the rental term can be from a few hours to months at a time. Examples are ZipCar, RelayRides, Getaround and FlightCar.

Ride-sharing is similar to taxis and limousine where the driver is the owner or employee of the vehicle. It involves an on-demand reservation and short trips. Examples are Uber (uberX), Lyft and Sidecar. The entities in this area where booking is done via an online enabled application are also called Transportation Network Companies (TNC) and they are becoming more popular day-to-day.

Due to the various gaps in coverage as many TNC operators are using their personal cars, the NAIC and many insurance departments have issued consumer alerts informing the public they may not be properly insured. There are various exclusions in personal automobile insurance policies and some policies may terminate coverage when the vehicle is first used in a livery situation. The TNC's do provide coverage for the vehicles when they are hired. Apparently, the TNC's have coverage in the surplus lines market.

See additional information on this subject in the Property and Casualty Insurance (C) Committee section related to this session.

Corporate Governance Models

Besides the overall importance of these models, there are two main issues to be aware of.

Some news reports indicated the NAIC adopted the Corporate Governance Models. In fact the NAIC has not; the models were only adopted by a Working Group and the Financial Condition (E) Committee. The Corporate Governance Annual Disclosure Model Act and supporting Model Regulation need to be approved by the Executive (EX) Committee and Plenary. This will more than likely occur at the NAIC Fall National Meeting to be held in Washington DC in November.

Secondly, these models apply to every insurance company. The models are not like the Own Risk and Solvency Assessment (ORSA) models that apply to companies with \$500,000,000 or more in premium. It applies no matter what the size or type of company it is. It applies to health, property and casualty, fraternal, life, and title.

The model act and regulation provides a means for insurance regulators to receive additional information on the corporate governance practices of U.S. insurers on an annual basis. Specifically the models require U.S. insurers to provide a detailed narrative describing governance practices to their lead state or domestic regulator by June 1st of each year. Insurers will be allowed some discretion in determining the level within the organization to report their corporate governance practices at, depending upon their structure and organization. Some of the information the models seeks to obtain information on includes: bylaws, charters, CEO selection process, risk committee, written procedures and responsibilities of directors, the board of directors core competencies, financial literacy, audit background and risk management experience.

The models contain some confidentiality measures. However there was a concern expressed at the Working Group meeting by Florida. Florida suggested alternative language but the models were adopted as drafted.

A concern expressed by industry on the models was that there is duplication of information provided to insurance departments. These models require various information but in some cases it is the same as already required by the regulators. Some of the duplication is reported to other areas of the state regulatory agency and the time frames to report the same information is different. Consistency and sharing of the information was suggested. There was some sympathy expressed by regulators on the issue.

Regulators expect the reporting under the corporate governance models to begin in 2016.

ORSA Implementation

The recently hired ORSA expert by the NAIC was introduced at the Casualty Actuarial and Statistical (C) Task Force. Elisabetta Russo, ERM Advisor, will assist regulators in reviewing and understanding ORSA reports.

Structured Settlements

During the Affordable Care Act Medical Professional Liability (C) Working Group meeting, there was a presentation on how structured settlements are changing in the industry. Due to the Patient Protection and Affordable Care Act (PPACA), preexisting conditions are no longer an issue for someone to obtain health insurance in the future. Therefore, the loss of benefits should no longer be a part of the damages. Replacing this would be the insurance to purchase the insurance. Therefore, the total settlement is less after PPACA than before.

SERFF Public Access

During the Speed to Market (EX) Task Force meeting, a demonstration of form and rate filings now available in SERFF was showcased. All available filings in SERFF by several states are currently available. The number of states participating will be expanded. The SERFF website provides a convenient access point to each state's website for the available filings. Anyone without a login or identifying oneself can view and subsequently download any filing by any company.

Governance Review (EX) Task Force

The Task Force is to review the NAIC's governing documents, practices and procedures and potentially make recommendations to the Executive Committee on revisions to the NAIC's organizational structure, committee structure, and internal and external decision making policies and procedures.

A Request for Proposal (RFP) was sent out and closed August 15 wherein the NAIC is considering an outside consultant to assist in the governance review of the NAIC. During this meeting of the Task Force it was apparent that many of the commissioners were upset as they were not invited or informed on various issues as a subgroup of the Executive Committee was formed to handle the work of the Task Force. Task Force members want the Executive Committee to return the work to the Task Force and for the Task Force to make the recommendation on NAIC governance as they were originally obliged to do. NAIC President-Elect and Montana Commissioner of Securities and Insurance Monica J. Lindeen indicated the Executive Committee will communicate more effectively with the Task Force.

XXX/AXXX Reinsurance Framework

The Executive Committee adopted the XXX/AXXX Reinsurance Framework, which furthers an action plan to develop proposed changes to the insurer/captive regulations specific to XXX/AXXX transactions.

The XXX/AXXX Reinsurance Framework would not change the statutory reserve requirements; rather, it would change what types of assets or securities are needed to back those reserve liabilities. The framework would also require the ceding company to disclose the assets and securities used to support the reserves and hold an RBC cushion if the captive does not file RBC.

Numerous groups will develop the details to create the framework for subsequent consideration by the entire NAIC membership.

Unclaimed Property

The American Council of Life Insurers (ACLI) provided a White Paper to the Unclaimed Life Insurance Benefits (A) Working Group. The paper related to unclaimed life insurance benefits and the death master file. To address the issue of unclaimed life insurance benefits, the Working Group will be developing recommendations. It appears it may be several months before the recommendations are provided to the Life Insurance and Annuities (A) Committee for their consideration.

Executive (EX) Committee

The Committee approved a revised investment policy, provided funding for various projects and set up a 2015 budget schedule. The Committee also adopted two model law development requests for amendments to the Health Insurance Reserves Model Regulation (#10) referencing a new table in Appendix A for “individual long-term disability liabilities;” and referencing new standards for the “valuation of long-term care insurance liabilities.”

Life Insurance and Annuities (A) Committee Health Insurance and Managed Care (B) Committee

The Committees and its working groups are working and reviewing various issues but took no final action other than adopting task force and working group reports.

Terrorism Insurance Implementation (C) Working Group

The Working Group asked NAIC staff to create a template so the documents related to potential revisions to a model bulletin on filing procedures, an expedited filing form, and policyholder disclosures can be quickly updated if and when Congress reauthorizes the Terrorism Risk Insurance Act (TRIA).

Property and Casualty Insurance (C) Committee

Most notably, the Committee:

- Adopted Best Practices for Creating Consumer Online Insurance Policy Resources.
- Adopted the Data Collection Template and referred it to the Financial Condition (E) Committee.
- Appointed a working group to study issues, primarily coverage gaps, to the recent CIPR Event: “Commercial Ride-sharing and Car-sharing Issues”
 - At the CIPR event it was mentioned there is an issue when personal automobile coverage ends and the commercial automobile coverage begins
 - At the NAIC/State Government Liaison Committee meeting it was mentioned there is a concern the driver may be considered a contractor or an employer and would need workers’ compensation insurance as coverage under their health policy may be denied
- Asked the Auto Insurance (C/D) Study Group to research issues regarding the TransUnion/CARFAX rating model which provides for a Vehicle History Score as filings have been made with many insurance departments
- Adopted a motion that the NAIC join the National Association of State Fire Marshals in support of its public relations efforts on yellow Corrugated Stainless Steel Tubing (CSST)
- Agreed that a working group will look into issues related to the unauthorized practice of public adjusting

Market Regulation and Consumer Affairs (D) Committee

Most notably, the Committee adopted the PPACA market conduct examination standards for rescissions, extension of dependent coverage to Age 26, guaranteed availability of individual and small group market health insurance coverage, guaranteed renewability of individual and small group market health insurance coverage, and coverage of individuals participating in approved clinical trials.

Financial Condition (E) Committee

As mentioned earlier, the Committee adopted the Corporate Governance Annual Disclosure Model Act and the Corporate Governance Annual Filing Model Regulation.

Other notable items by the Committee included:

- Adopted the Model Guideline for Payment of Interest to Receiver on Overdue Reinsurance Recoverables
- Exposed for a 30-day comment period a proposed modification to AG38 to delete the existing requirement for companies to file annual reports with the Financial Analysis (E) Working Group while granting the Working Group the right to ask for such reports when doing so is deemed appropriate. The comment period will end Oct. 1, 2014.

Financial Regulation Standards and Accreditation (F) Committee

Most notably, the Committee adopted:

- Revisions to the Review Team Guidelines to incorporate certain revisions to the 2014 Financial Condition Examiners Handbook related to critical risk categories and information technology general controls, effective Jan. 1, 2015
- The Model Risk Retention Act (#705) as a Part A accreditation standard for risk retention groups (RRGs), effective Jan. 1, 2017
- 2011 revisions to the Risk-Based Capital (RBC) for Insurers Model Act (#312) as an update to the Part A accreditation standards, effective Jan. 1, 2017
- Revisions to the “Reinsurance Guidelines for Risk Retention Groups Licensed as Captive Insurers” (Reinsurance Guidelines), effective Jan. 1, 2015

Executive (EX) Committee and Plenary

The concluding session adopted various reports and adopted amendments to the Long-Term Care Insurance Model Regulation (#641) and to the Annual Financial Reporting Model Regulation (#205).