

MODEL LAW DEVELOPMENT FRAMEWORK **FREQUENTLY ASKED QUESTIONS**

1. What is the new Model Law Development Framework strategy?

In an effort to reshape and refocus the use of model laws for NAIC membership priorities that require national, uniform legislation and regulation, the membership approved significant changes to the way they develop model laws. The new Model Law Development Framework sets the priority and direction for model law activities on the front-end of the development process, streamlines model law development, better aligns it with membership priorities and initiatives, and helps states to introduce NAIC work product with relevancy in solving national issues through uniform enactment.

2. What are the criteria for a model law?

- a. The issue that is the subject of the model law necessitates a *national standard* and requires *uniformity* amongst all states; and
- b. NAIC Members are *committed* to devote *significant regulator and association resources* to educate, communicate and support a model.

3. What does a national standard requiring uniformity mean?

Today, there are a couple of examples of model laws that create a national standard and have been adopted uniformly by several states. A recent example is the Interstate Insurance Product Regulation Compact Model Law creating a Commission to be a single point of filing for asset-based insurance products based on uniform, consumer-oriented national product standards. The nature of compact law necessitates the states adopt the Model Law with no material variance.

Another example is model laws that are part of the NAIC's Accreditation Program, which promotes national uniform standards. Uniform enactment does not mean word-for-word adoption of the model law and does allow for stylistic, formatting changes. Rather, in the context of the Accreditation Program, uniformity is achieved through implementation of language and provisions that are substantially similar to that contained within required NAIC models. In this way, regulators, consumers, producers, companies and others affected by state insurance regulation have comfort that a standard which is national in scope is being treated uniformly across the states, whether through legislation or regulation. At the same, NAIC members recognize the need for flexibility when implementing substantially similar provisions of required NAIC models.

4. What does commitment mean within the new model law criteria?

NAIC members will have an opportunity at the front-end of the model law development process to evaluate their commitment, not only to devoting resources to drafting the

model but also whether this commitment extends to supporting its implementation back home. By understanding this factor at the beginning of the model law development process, it will allow the NAIC to meaningfully assess the likelihood of success for achieving a national uniform standard.

NAIC membership is fully aware that state insurance departments have different processes when working to support the legislative process and this part of the criteria is not intended to affect these processes. The membership also understands its role as part of the executive branch of state government and its separation from, but necessity to work closely and coordinate with, the state's legislative branch.

5. Who determines whether a request to develop a model law meets the criteria?

A Committee, Task Force, Working Group or Subgroup may discuss and decide whether an issue necessitates development of a model law based on the criteria. The drafting group shall not devote resources to actual development or drafting of a Model Law until it receives approval of the Parent Committee and Executive Committee. Upon approval of the Parent Committee, the Chair of the Committee will present the request for model law development to the Executive Committee for consideration. The Executive Committee will discuss and have the final approval of the request.

6. What happens if the issue does not meet the model law criteria?

If the issue or matter does not meet the model law criteria, it may be developed as a regulatory best practice guideline, which should still be considered a relevant and useful tool to states. A group may commence development of regulatory best practice guidelines without seeking approval of the Executive Committee provided the activity is still consistent with the group's charges.

7. What is the difference between regulatory best practice guidelines and model laws?

Model laws are laws and regulations requiring uniform enactment. Regulatory best practice guidelines are practices not requiring uniform adoption or the level of dedicated resources to implement. Regulatory best practice guidelines can include handbooks, guidance, white papers and bulletins that provide peer-reviewed best thinking, which offer the states a suite of guidance and options. Regulatory best practice guidelines are equally important and will expand the number of alternatives available to members. They may also form the basis for laws and regulations implemented by the states.

8. What happens after the Executive Committee approves a request for model law development?

The drafting group must develop the model law within one year from the date of approval. By acknowledging the need for a national uniform standard and the

commitment of the membership, a model's development will be a key priority for the organization.

A model law must be ready for action by the Executive/Plenary no later than the next quarterly NAIC meeting following the one-year anniversary of the Executive Committee's approval of the request. For instance, if the Executive Committee approves a request at its September 2007 meeting, it should be drafted and adopted by the Parent Committee and ready for action by the Executive Committee at its December 2008 meeting.

The Executive Committee, upon demonstration of good cause by the drafting group, may grant an extension of time for development of the model law. The drafting group, through its Parent Committee, shall provide a quarterly report to the Executive Committee regarding the status of its model law development efforts.

9. What happens if the Executive Committee does not approve a request for model law development?

The drafting group may proceed with developing regulatory best practice guidelines to address the issue.

10. How are model laws adopted?

Adoption of a model law will now require a minimum two-thirds majority vote of both the Parent Committee and the NAIC Executive/Plenary. Each Member is asked to vote based on whether he or she will make a commitment to support the model law in their state. Each member is best positioned to assess the likelihood of successful implementation in his or her state based upon the state's legislative, regulatory and political environments. Commitment can take many forms from simply indicating support of the model when asked by the legislature, to proactively placing the model on the department's legislative agenda. With this front-end commitment, only model laws that have a high chance of implementation in the states will be developed and adopted.

11. What happens if a model law is approved by a majority vote but not a 2/3 vote?

The Model Law will be reclassified as a regulatory best practice guideline and reflected as adopted by the membership.

12. What happens after a Model Law is adopted by the NAIC membership?

The NAIC will devote significant resources to educate, communicate and support an adopted model with the goal of implementation by a majority of states within three years. To do this, the NAIC will follow these steps:

1. The NAIC will issue a press release upon adoption of the Model by the membership.
2. Within thirty (30) days of adoption, the responsible drafting group, with committee staff support, will prepare a briefing packet on the Model Law for distribution to all Commissioners, General Counsels, and Legislative Liaisons. The briefing packet will include, among other relevant material, the Model, Project/Legislative History, FAQs, and summary points. Much of this information, including background information and status on state implementation, will be prominently displayed on the NAIC's website.
3. The Parent Committee will monitor the state implementation of the Model Law including routinely surveying states, having regular updates on the Model's implementation and providing a quarterly report to the Executive Committee.
4. A team of NAIC Staff and/or volunteer regulators will be assigned to support the Model and be available to respond to inquiries, provide background information and, if requested, make state visits to meet with department or legislative staff and/or provide testimony.
5. If appropriate, members of the Parent Committee and/or NAIC Staff will work closely with other organizations supportive of the Model including state legislative and industry organizations to support and coordinate state legislative activities.
6. The NAIC Legal Division will closely track and report on state legislative and regulatory adoption of the Model Law. Upon a state's adoption of the Model, the NAIC will issue a press release.