MEMORANDUM

TO: Commissioners, Directors, Superintendents, and Interested Parties
FROM: Jennifer McAdam, Legal Counsel
DATE: December 15, 2014
RE: Action on Model Laws, Guidelines, and White Papers at the 2014 Fall National Meeting

This memorandum describes NAIC action on model laws, guidelines, and white papers at the 2014 Fall National Meeting. For further information, including current drafts and staff support contacts for each item, please consult the NAIC web site (www.naic.org), Committees and Activities page.

I. Actions by Executive (EX) Committee and Plenary

A. Model Laws and Regulations Adopted by the Executive (EX) Committee and Plenary

New Corporate Governance Annual Disclosure Model Act (#305) and Corporate Governance Annual Disclosure Model Regulation (#306)

The Executive (EX) Committee and Plenary adopted the new Corporate Governance Annual Disclosure Model Act and Regulation, which have since been assigned numbers 305 and 306, respectively. These new models allow states to collect information on corporate governance practices annually. The models were drafted by the Corporate Governance (E) Working Group.

B. Guidelines Adopted by the Executive (EX) Committee and Plenary

New Model Guideline for Payment of Interest to Receivers on Overdue Reinsurance Recoverables (#1600)

The Executive (EX) Committee and Plenary adopted the new Model Guideline for Payment of Interest to Receivers on Overdue Reinsurance Recoverables, which has since been assigned number 1600. Drafted by the Receivership and Insolvency (E) Task Force, the Guideline is intended to bring leverage against reinsurers when they unjustifiably deny payments after claims have been shown to be properly due and owed, but that it should not be used punitively.

C. Actuarial Guidelines Adopted by the Joint Executive Committee/Plenary

The Executive (EX) Committee and Plenary did not adopt any actuarial guidelines at the Fall National Meeting.
D. Bulletins/Consumer Alerts Adopted by Executive (EX) Committee and Plenary

The Executive (EX) Committee and Plenary did not adopt any bulletins or consumer alerts during the Fall National Meeting.

E. White Papers Adopted by Executive (EX) Committee and Plenary

The Executive (EX) Committee and Plenary did not adopt any white papers during the Fall National Meeting.

F. Model Laws and Regulations Archived by the Executive (EX) Committee and Plenary

The Executive Committee (EX) Committee and Plenary did not archive any model laws or regulations during the Fall National Meeting.

II. Actions by Executive (EX) Committee

A. Model Law and Regulation Requests Approved for Development by the Executive (EX) Committee

The Executive (EX) Committee did not approve any model law and regulation requests at the Fall National Meeting.

B. Actions by Executive (EX) Committee Working Groups and Task Forces

1. Actuarial Guideline XLVIII (AG 48), Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation

The Principle-Based Reserving Implementation (EX) Task Force voted to adopt Actuarial Guideline XLVIII (AG 48). The actuarial guideline was drafted by the Life Actuarial (A) Task Force and the Principle-Based Reserving Implementation (EX) Task Force to address the XXX/AXXX Captive Reinsurance Framework. The Executive (EX) Committee and Plenary will vote on this proposed actuarial guideline on a December 16 conference call. If approved, it could become effective Jan. 1, 2015.

III. Actions by Other Committees, Task Forces and Working Groups

A. Life Insurance and Annuities (A) Committee

1. Actuarial Guideline XLVIII (AG 48), Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation

The Life Actuarial (A) Task Force drafted and recommended the actuarial components of Actuarial Guideline XLVIII (AG 48). Among those actuarial components were the actuarial method and the net premium ratios. The actuarial guideline was drafted by the
Life Actuarial (A) Task Force and the Principle-Based Reserving Implementation (EX) Task Force to address the XXX/AXXX Captive Reinsurance Framework. The Task Force voted to recommend the draft of the actuarial components to the Principle-Based Reserving Implementation (EX) Task Force for inclusion in Actuarial Guideline XLVIII (AG 48).

2. Amendments to Synthetic Guaranteed Investment Contracts Model Regulation (#695)

The Life Insurance and Annuities (A) Committee granted an extension to the Life Actuarial (A) Task Force for its amendments to this model. The amendments will modify the valuation methodology for in-force synthetic guaranteed investment contracts to allow for a liability valuation methodology that is appropriate in multiple economic environments.

3. Amendments to the Annuity Disclosure Model Regulation (#245); Suitability in Annuity Transactions Model Regulation (#275); Advertisements of Life Insurance and Annuities Model Regulation (#570); and Life Insurance and Annuities Replacement Model Regulation (#613)

The Contingent Deferred Annuity (A) Working Group adopted the October 31 revisions to these models. The Working Group has been evaluating the adequacy of existing laws and regulations as applied to Contingent Deferred Annuities and whether additional consumer protection standards are required.

B. Health Insurance and Managed Care (B) Committee

1. Individual and Small Group Market Health Insurance Coverage Model Regulations

The Regulatory Framework (B) Task Force and the Health Insurance and Managed Care (B) Committee both adopted revised drafts of the Individual Market Health Insurance Coverage Model Regulation (companion model regulation to the Individual Market Health Insurance Coverage Model Act (#36)) and the Small Group Market Health Insurance Coverage Model Regulation (companion model regulation to the Small Group Market Health Insurance Coverage Model Act (#106)). The model regulations implement the provisions of the corresponding model acts. The purpose of the model acts and regulations is to set out the requirements for guaranteed availability, guaranteed renewability and premium rating and to provide for the establishment of coverage and other benefit requirements. Executive (EX) Committee and Plenary will vote on these proposed models on a conference call on December 16, 2014.

2. Amendments to Group Health Insurance Definition and Group Health Insurance Standard Provisions Model Act (#100), Accident and Sickness Insurance Minimum Standards Model Act (#170), and Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)

The Regulatory Framework (B) Task Force discussed the comments received on the Accident and Sickness Insurance Minimum Standards Model Act (#170) and the Model
Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171). The Task Force also heard a status update on the proposed revisions to the Group Health Insurance Standards Model Act (#100). NAIC staff will prepare discussion drafts of these models for the Task Force to review during a conference call in early 2015. The Task Force is revising these models to comply with the Affordable Care Act.

3. **Amendments to the Managed Care Plan Network Adequacy Model Act (#74)**

The Regulatory Framework (B) Task Force adopted the report of the Network Adequacy Model Review (B) Subgroup. The Subgroup discussed an initial draft of revisions to Model #74 and exposed it for a public comment period ending Jan. 12, 2015. The Network Adequacy Model Review (B) Subgroup is revising this model for consistency with the Affordable Care Act and is making other necessary revisions to reflect changes in the way health care services are delivered since Model #74 was initially adopted in 1996.

4. **Stop Loss Insurance, Self-Funding and the ACA White Paper**

The ERISA (B) Working Group exposed a revised draft of the Stop Loss Insurance, Self-Funding and the ACA white paper for a public comment period ending Dec. 17. The Working Group anticipates meeting via conference call in January 2015 to discuss any comments received. The white paper examines the issues surrounding the potential impact of small employer self-insurance on the small group market.

C. **Property and Casualty Insurance (C) Committee**

1. **New Guideline for Title Insurance Guaranty Fund**

The Title Insurance Guaranty Fund (C/E) Working Group voted to expose the revised draft for a public comment period ending November 20, 2014. The model would create a nonprofit legal entity within the state and all insurers that write title insurance business in the state would be members. The fund would cover claims up to a specified dollar amount.


D. Market Regulation and Consumer Affairs (D) Committee

The Market Regulation and Consumer Affairs (D) Committee did not take any action on model laws, guidelines or white papers at the Fall National Meeting.

E. Financial Condition (E) Committee

1. Amendments to Mortgage Guaranty Insurance Model Act (#630)

   The Financial Condition (E) Committee granted an extension of time to the Mortgage Guaranty Insurance (E) Working Group to complete drafting amendments to this model. The Working Group is drafting amendments to Capital Requirements, Investment Limitations, Reinsurance and other areas of the model to address areas highlighted for change as a result of the recent mortgage crisis.

2. Amendments to the Insurance Holding Company System Regulatory Act (#440)

   The Group Solvency Issues Working Group discussed revisions to the model and subsequently adopted amendments on a conference call held on December 3, 2014. Following that, the Financial Condition (E) Committee adopted the amendments on a call held on December 4, 2014. The amendments address issues that have arisen since 2010. Specifically, there has been discussion regarding the need for the states to have: 1) clear authority to act as a group-wide supervisor; 2) direct authority over the insurance holding company; 3) legal authority to require and coordinate resolution plans; and 4) group-wide financial reporting for large insurance groups to be made a part of the holding company analysis. The Executive (EX) Committee and Plenary will vote on these amendments on a conference call on December 16, 2014.

3. Amendments to Actuarial Guideline XXXVIII (38)

   The Emerging Actuarial Issues (E) Working Group discussed comments received on Actuarial Guideline XXXVIII (AG 38), the Application of the Valuation of Life Insurance Policies Model Regulation (#830). The actuarial guideline contains a requirement for companies to submit their information to the Financial Analysis (E) Working Group on an annual basis. Now that the Working Group has performed a baseline review of both new and existing products, addressing a few particular issues during that review process, there is less need for this annual requirement for all companies. Thus, the proposed revision to AG 38 indicates the Financial Analysis (E) Working Group retains the option of requesting such information for review rather than requiring it of all companies annually.

4. XXX/AXXX Reinsurance Framework Model Laws

   The Reinsurance (E) Task Force has created a XXX/AXXX Model Regulation Drafting Group to prepare a draft regulation for review by the Task Force incorporating the provisions of AG 48, which is intended to eventually become an accreditation requirement for the NAIC. The Drafting Group will refrain from drafting until the
Principle-Based Reserving Implementation (EX) Task Force completes its work on Actuarial Guideline XLVIII (AG 48). At that time, the Drafting Group can determine whether it believes that any changes to the AG 48 approach should be made in the model regulation. If the Drafting Group is of the opinion that any substantive modifications should to be made to the AG 48 approach as it finalizes the model regulation, it should submit these proposed changes back to the Principle-Based Reserving Implementation (EX) Task Force for further guidance.

The Executive (EX) Committee approved a model law request for the Reinsurance (E) Task Force to draft a new XXX/AXXX Reinsurance Model Regulation that will establish the requirements regarding the reinsurance of XXX/AXXX policies, using the Principle-Based Reserving Implementation (EX) Task Force’s XXX/AXXX Reinsurance Framework as the starting point and a model law request to draft amendments to the Credit for Reinsurance Model Law (#785), to reference the new XXX/AXXX Reinsurance Model Regulation.

5. **Notice of Protection Provided by [State] Life and Health Guaranty Association Guideline (#1525)**

The Receivership and Insolvency (E) Task Force revised the Notice of Protection Provided by [State] Life and Health Insurance Guaranty Association (#1525). The revision was an editorial correction, changing “cash surrender or withdrawal values” to “cash surrender and withdrawal values” in the listing of basic protections provided for life insurance. The Financial Condition (E) Committee considered the revised Guideline #1525 as part of the Task Force report.