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2009 Winter National Meeting
San Francisco, CA

EXECUTIVE (EX) COMMITTEE*

Sunday, December 6, 2009

1:00 – 2:00 p.m.

Hilton San Francisco—Grand Salon B—Grand Ballroom Level

Written Summary Report on Model Law Development Efforts

Amendments to Insurance Holding Company System Regulatory Act (#440) and Amendments to Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)—The request for model law development for amendments to the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions was adopted by the Executive (EX) Committee at the 2009 Fall National Meeting. The Group Solvency Issues (EX) Working Group is currently debating proposed revisions to the model act and model regulation that were exposed for comment Nov. 19. At the 2009 Winter National Meeting, the Working Group will discuss comments received on the exposure drafts. Because the Financial Condition (E) Committee is charged with overseeing the NAIC's financial regulatory system, the Working Group intends to send its final proposed amendments to the model act and model regulation to the Committee for consideration.

Amendments to Standard Nonforfeiture Law for Life Insurance (#808)—The Executive Committee approved the request to work on this model law at the 2007 Summer National Meeting. This is a simple change that will be needed when the principle-based reserving system is authorized. It delinks the interest rates from the valuation interest rate and links them to the formula currently used. This law is not currently being advanced for two reasons: 1) there is no immediate need for the delinking without the principle-based reserving system authorized via the *Standard Valuation Law* (#820); and 2) the Life and Health Actuarial Task Force decided it would be better to incorporate all of the proposed nonforfeiture changes into one new model law, rather than piecemeal them into the existing law.

On a Nov. 14, 2008, conference call, the American Council of Life Insurers said the method of introducing new mortality tables for determining the minimum nonforfeiture values would have to be reviewed. Otherwise, the nonforfeiture mortality standard might not be comparable with the valuation mortality. At the Spring National Meeting, the Task Force decided to defer consideration of this model law until more work is done on the *Standard Valuation Law* and the Valuation Manual.

Amendments to Suitability in Annuity Transactions Model Regulation (#275)—The Executive Committee approved the model law request for revising the *Suitability of Annuity Transactions Model Regulation* (#275) at the 2008 Summer National Meeting. Due to a number of issues that have arisen related to the proposed revisions to the model, the Working Group did not meet the deadline to complete the revisions by the 2009 Fall National Meeting. As such, the Working Group sought and received approval from the Life Insurance and Annuities (A) Committee for an extension to complete its work by year-end.

At the Fall National Meeting, the Suitability in Annuity Sales Working Group reviewed a new draft of proposed revisions to the *Suitability in Annuity Transactions Model Regulation* (#275). This draft was developed by a subgroup of the Working Group. Following the Fall National Meeting, the subgroup reviewed comments received on this draft and held discussions with various stakeholders. The subgroup developed a revised draft based on the comments and the discussions. This draft was released Nov. 16. The Working Group held a conference call Nov. 24 to discuss the subgroup's revisions. Based on that discussion and the comments received, the subgroup developed a revised draft and released that draft Nov. 27. The Working Group held a conference call Dec. 1 to discuss the revisions and hear comments. At the conclusion of the call, the Working Group adopted the revisions and will present its report to the Life Insurance and Annuities (A) Committee for its consideration.

Amendments to Annuity Disclosure Model Regulation (#245)—At the Fall National Meeting, the Annuity Disclosure (A) Working Group made a recommendation to the Life Insurance and Annuities (A) Committee to recommend to the Receivership and Insolvency (E) Task Force that it consider revising the *Life and Health Insurance Guaranty Association Model Act* (#520) to include the updated guaranty fund coverage disclosure notice developed by the Working Group. The Life Insurance and Annuities (A) Committee adopted the Working Group's recommendation.

The Working Group is continuing to discuss draft annuity illustration guidelines to be included in the model. The Working Group is also continuing its work on revising the annuity buyer's guides. Just prior to the Fall National Meeting, the Working Group exposed for comment drafts of revised buyer's guides (fixed-deferred annuities, indexed annuities and variable

deferred annuities). The Working Group will discuss the draft annuity illustration guidelines and the buyer's guides during its meeting at the Winter National Meeting.

The Executive Committee approved a model law development request at the 2008 Fall National Meeting to work on revisions to the *Annuity Disclosure Model Regulation* (#245). The Working Group will not meet the deadline to complete the revisions by the Winter National Meeting. As such, it will be seeking an extension from the Life Insurance and Annuities (A) Committee to complete its work early next year. The Annuity Disclosure (A) Working Group is close to completing its work and expects to finish by the 2010 Spring National Meeting.

Amendments to Nondiscrimination of Health Insurance Coverage in the Group Market Model Regulation (#107)—The Regulatory Framework (B) Task Force of the Health Insurance and Managed Care (B) Committee is amending the *Nondiscrimination in Health Insurance Coverage in the Group Market Model Regulation* (#107) for consistency with the federal Genetic Information and Nondiscrimination Act of 2008 (GINA). GINA prohibits denial, conditioning or discrimination in the pricing of a group or individual health plan on the basis of genetic information. GINA also limits the ability of group health plans and group and individual health plan issuers to request or require genetic testing, and prohibits the collection of genetic information for underwriting or other purposes prior to enrollment.

A draft of the proposed revisions was distributed for comment June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revisions due to the recently issued final interim regulations promulgated by the federal agencies charged with administering GINA. During the Task Force's Oct. 13 conference call, the Task Force decided to defer any action on these revisions until activities related to federal health care reform are completed.

Amendments to Small Employer Health Insurance Availability Model Act (Prospective Reinsurance with or without and Opt-out) (#118)—The Regulatory Framework (B) Task Force of the Health Insurance and Managed Care (B) Committee is amending the *Small Employer Health Insurance Availability Model Act (Prospective Reinsurance with or without and Opt-out)* (#118) for consistency with the special enrollment provisions under the federal State Children's Health Insurance Program (SCHIP) Reauthorization bill. These provisions add a new special enrollment provision for individuals whose coverage under Medicaid or the Children's Health Insurance Program (CHIP) terminates. A draft of the proposed revisions was distributed for comment June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revision after any regulations currently being drafted by the federal agencies charged with administering the provisions of this law are promulgated. During the Task Force's Oct. 13 conference call, the Task Force decided to defer any action on these revisions until activities related to federal health care reform are completed.

Amendments to Individual Health Insurance Portability Model Act (#37)— The Regulatory Framework (B) Task Force of the Health Insurance and Managed Care (B) Committee is amending the *Individual Health Insurance Portability Model Act* (#37) for consistency with the federal Genetic Information and Nondiscrimination Act of 2008 (GINA). GINA prohibits denial, conditioning or discrimination in the pricing of a group or individual health plan on the basis of genetic information. GINA also limits the ability of group health plans and group and individual health plan issuers to request or require genetic testing, and prohibits the collection of genetic information for underwriting or other purposes prior to enrollment. A draft of the proposed revisions was distributed for comment June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revisions due to the recently issued final interim regulations promulgated by the federal agencies charged with administering GINA. During the Task Force's Oct. 13 conference call, the Task Force decided to defer any action on these revisions until activities related to federal health care reform are completed.

Amendments to Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (#651)—The Executive Committee approved the request to work on this model law at the 2007 Summer National Meeting. A conference call was held Aug. 14, 2007, by a subgroup of the Accident and Health Working Group to discuss changes to Section 1882(r) of Social Security Act. At the 2007 Fall National Meeting, the Working Group approved a letter to the Senior Issues (B) Task Force recommending changes to Section 1882(r). At the 2008 Fall National Meeting, the Working Group sent a letter to the American Academy of Actuaries requesting assistance in the redesign of the Medicare supplement insurance refund formula. There were several conference calls in 2008 and 2009 to discuss the response by the American Academy of Actuaries. The Working Group has had a conference call to discuss the structure of a revised refund formula.