Consider Adoption of its Nov. 18, 2014 Minutes
Attachment One
The Property and Casualty Insurance (C) Committee met in Washington, DC, Nov. 18, 2014. The following Committee members participated: Mike Chaney, Chair (MS); Merle D. Scheiber, Vice Chair (SD); Lori K. Wing-Heier (AK); Jim L. Ridling (AL); Jay Bradford (AR); Kevin M. McCarty (FL); Andrew Boron represented by James Stephens (IL); Joseph G. Murphy (MA); John G. Franchini (NM); John D. Doak (OK); Joseph Torti III represented by Paula Pallozzi (RI); Mike Kreidler (WA); and Tom C. Hirsig (WY). Also participating was: David Browning (LA).

1. **Adopted its Oct. 22 Minutes**

Commissioner Murphy made a motion, seconded by Commissioner McCarty, to adopt the Committee’s Oct. 22 minutes (Attachment One). The motion passed.

2. **Adopted its Task Force and Working Group Reports**

Director Scheiber made a motion, seconded by Commissioner Ridling, to adopt the reports of the Committee’s task forces and working groups: the Casualty Actuarial and Statistical (C) Task Force; the Surplus Lines (C) Task Force; the Title Insurance (C) Task Force; the Workers’ Compensation (C) Task Force; the Advisory Organization Examination Oversight (C) Working Group; the Affordable Care Act Medical Professional Liability (C) Working Group (Attachment Two); the Auto Insurance (C/D) Study Group (Attachment Three); the Catastrophe Insurance (C) Working Group (Attachment Four); the Catastrophe Response (C) Working Group (Attachment Five); the Climate Change and Global Warming (C) Working Group (Attachment Six); the Crop Insurance (C) Working Group (Attachment Seven); the Earthquake (C) Study Group; the Sharing Economy (C) Working Group (Attachment Eight); the Risk Retention (C) Working Group; the Terrorism Insurance Implementation (C) Working Group (Attachment Nine); and the Transparency and Readability of Consumer Information (C) Working Group (Attachment Ten). The motion passed.

The Advisory Organization Examination Oversight (C) Working Group met Nov. 16 and Oct. 20 in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings.

3. **Adopted the Compendium of Reports on the Pricing of Personal Automobile Insurance**

Commissioner Murphy explained the Auto Insurance (C/D) Study Group added a section on consumer opinions and a link within the document to a list of studies and reports to the *Compendium of Reports on the Pricing of Personal Automobile Insurance* (Compendium). Commissioner Murphy made a motion, seconded by Commissioner Hirsig, to adopt the Compendium. The motion passed.

4. **Heard a Presentation on the Use of Databases and Data Mining Tools by Insurers**

Birny Birnbaum (Center for Economic Justice—CEJ) presented on the use of databases and data mining tools by insurers (Attachment Eleven). He said credit scoring was the first time where insurance companies were using data mining tools. Risk segmentation became very granular. The new school is where use of big data has exploded, with little or no transparency or oversight. He said there is no accountability for accuracy or completeness of the models. E-scores are developed from consumers’ use of social media, shopping habits, government records and more. Some companies are aggregating credit information just enough so they are not covered by the federal Fair Credit Reporting Act (FCRA). He said regulators do not know everything about what insurers are using. This is also not transparent to consumers.

Mr. Birnbaum said a Web aggregator can steer a customer toward a product where the store will make the most money or which the customer is most likely to purchase. It is possible for this to be done with the online purchase of insurance.

Commissioner McCarty asked where to best focus committee attention. Mr. Birnbaum said regulators should create routine data collection from individual policies and claims and perform data mining on that. He said regulators need to develop a new regulatory review methodology. He said this would help to focus regulatory resources on problem companies.
5. **Heard a Presentation on the National Oceanic and Atmospheric Administration**

Marguerite Tortorello (Property Casualty Insurers Association of America—PCI) presented the National Oceanic and Atmospheric Administration’s (NOAA) new weather-related product (Attachment Twelve). She discussed trends in social media, including the increased use of social media during catastrophes. She suggested using social media to educate consumers both pre- and post-catastrophe. She said the NOAA is developing new decision support services, improving technology to track and forecast storms, and expanding its dissemination efforts to achieve far-reaching national preparedness for weather events. She recommended a partnership between state insurance departments and the NOAA to increase education. Commissioner Doak recommended other states partner with the NOAA as Oklahoma did.

6. **Heard a Presentation on Emerging Technologies and Their Potential Impact to the Insurance Industry**

Michael Fitzgerald (Celent) presented on how emerging technologies might affect the P/C insurance industry (Attachment Thirteen). Consumers now expect purchases to be just in time and not too early, and with little effort. Insurers have been investing in technology funds. It is expected that there will be new players in the technology arena who are not familiar with insurance regulation. He recommended early involvement by the regulatory community by engaging with researchers. Big data is using data matching to identify where claims might be occurring. The insurer can then make the claims process shorter by calling potentially affected policyholders and providing loss mitigation advice, thereby ultimately saving claim costs. Mr. Fitzgerald also discussed 3-D printing, citing that 3-D printing can be used in health care. He offered to share his research and asked for opinions about where regulators see technology helping or hurting the insurance industry.

7. **Discussed Cyber Insurance**

Director Scheiber said the Executive (EX) Committee appointed a new Cybersecurity (EX) Task Force. He expects that the Committee will be asked by this new Task Force to frame the data collections issue, including studying the possibility of creating a new exhibit within the blank to collect data related to cyber coverage. Ms. Pallozzi asked whether SBS and SERFF could be leveraged to flag attacks or cyber filings. She also said a new type of insurance might need to be created for filing purposes.

8. **Discussed Lender-Placed Insurance Data Collection**

Mr. Browning said the Mississippi Insurance Department has received a majority of the data from all three lender-placed insurance companies involved in the data call, resulting in more than 15 million records. He said as of Nov. 14, Mississippi has uploaded the data files of two of the three companies in the format requested by the Federal Housing Finance Agency (FHFA) to a secure file transfer site. He said the remaining data files will be sent to the FHFA in the next week once the final files are provided to Mississippi. He said the FHFA has expressed its appreciation for the NAIC in coordinating the data call and collecting the data on the FHFA’s behalf.

9. **Heard an Update on the Assigned FIO Recommendations**

Eric Nordman (NAIC) provided an update on the Federal Insurance Office’s (FIO) recommendations assigned to the Committee (Attachment Fourteen.)

10. **Heard an Update on Yellow Corrugated Stainless Steel Tubing**

Director Scheiber asked the industry and the National Association of State Fire Marshals (NASFM) to prepare an update on the use of yellow corrugated stainless steel tubing (CSST) in homes and businesses.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.
Consider Adoption of its Task Force and Working Group Reports
• Casualty Actuarial and Statistical (C) Task Force—Commissioner James J. Donelon (LA)
• Surplus Lines (C) Task Force—Commissioner James J. Donelon (LA)
• Title Insurance (C) Task Force—Director Bruce R. Ramge (NE)
• Workers’ Compensation (C) Task Force—Superintendent Eric A. Cioppa (ME)
• Advisory Organization Examination Oversight (C) Working Group—Superintendent Eric A. Cioppa (ME)
• Affordable Care Act Medical Professional Liability (C) Working Group—Superintendent John G. Franchini (NM)
• Auto Insurance (C/D) Study Group—Acting Commissioner Gary Anderson (MA)
• Catastrophe Insurance (C) Working Group—Commissioner Kevin M. McCarty (FL)
• Catastrophe Response (C) Working Group—Commissioner John D. Doak (OK)
• Climate Change and Global Warming (C) Working Group—Commissioner Mike Kreidler (WA)
• Crop Insurance (C) Working Group—Director Larry Deiter (SD)
• Earthquake (C) Study Group—Commissioner Dave Jones (CA)
• Risk Retention (C) Working Group—David Provost (VT)
• Sharing Economy (C) Working Group—Commissioner Dave Jones (CA)
• Terrorism Insurance Implementation (C) Working Group—Superintendent Benjamin M. Lawsky (NY)
• Transparency and Readability of Consumer Information (C) Working Group—Angela Nelson (MO)
The Casualty Actuarial and Statistical (C) Task Force met March 28, 2015. During this meeting, the Task Force:


2. Adopted the reports of its working groups and subgroups, including establishment of membership of these groups.

3. Discussed evaluation of the Society of Actuaries’ (SOA) general insurance actuarial education.

4. Voted to expose the draft price optimization white paper for a public comment period ending Apr. 10.

5. Heard reports from the American Academy of Actuaries (Academy) on the topics of the Committee on Property and Liability Financial Reporting’s activities and actuarial professionalism.
Surplus Line (C) Task Force did not meet at the National Meeting
Meeting Summary Report

The Title Insurance (C) Task Force met March 29, 2015. During this meeting, the Task Force:

1. Adopted its Feb. 20 minutes.

2. Adopted reports of the Title Insurance Financial Reporting (C) Working Group; the Title Insurance Guaranty Fund (C) Working Group; and the Title Insurance Consumer Shopping Tools (C) Working Group.


5. Heard a presentation from American Land Title Association (ALTA) regarding the CFPB closing disclosure.

6. Discussed development of a consumer disclosure regarding affiliated business arrangements.

7. Heard an update on federal activities.

8. Directed NAIC staff to initiate the process of updating their March 2010 “Survey of State Insurance Laws Regarding Title Data and Title Matters.”
Workers’ Compensation (C) Task Force summary available as a separate handout
The Advisory Organization Examination Oversight (C) Working Group met in regulator-to-regulator session March 28, 2015, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings. During this meeting, the Working Group:

1. Adopted its Feb. 20 minutes
2. Heard a status report on the Surety and Fidelity Association of America (SFAA) exam.
3. Heard a status report on the National Crop Insurance Services (NCIS) exam.
7. Discussed the 2015 advisory organization examination calendar.
9. Heard a presentation on changes at the American Association of Insurance Services (AAIS).
Affordable Care Act Medical Professional Liability (C) Working Group did not meet at the National Meeting
The Auto Insurance (C/D) Study Group met March 28, 2015. During this meeting, the Study Group:

1. Adopted its Nov. 16, 2014, minutes.

2. Discussed a draft data call template and directed NAIC staff to draft an overview to the template explaining the purpose and other key elements. The Study Group will then follow up with a conference call to discuss the template.

3. Heard a presentation regarding the Transunion/CARFAX rating tool.
Meeting Summary Report

The Catastrophe Insurance (C) Working Group met March 29, 2015. During this meeting, the Working Group:

1. Adopted its Nov. 17 minutes.
2. Received a report regarding the activities of the Post-Catastrophe Regulatory Guidance (C) Subgroup and adopted its Feb. 17 minutes.
3. Received a report regarding the activities of the Consumer Outreach and Assistance Post-Disaster (C) Subgroup and adopted its March 16 minutes.
4. Received an update regarding the National Flood Insurance Program (NFIP) and catastrophe-related legislation.
5. Heard a presentation regarding the RiskInsight U.S. storm surge model.
Catastrophe Response (C) Working Group summary available as a separate handout
The Climate Change and Global Warming (C) Working Group met March 28, 2015. During this meeting, the Working Group:

1. Adopted its Nov. 16, 2014, minutes.

2. Heard a presentation from Munich Re America on its multifaceted climate strategy and recent mitigation activities.

3. Heard a presentation from Ceres on briefing materials it developed to educate financial examiners on how climate risks and opportunities affect insurer solvency.
The Crop Insurance (C) Working Group met March 28, 2015. During this meeting, the Working Group:

1. Adopted its Nov. 16, 2014, minutes.
2. Heard an update on federally subsidized index-based weather insurance programs.
3. Heard an update from the National Crop Insurance Services.
4. Heard an update on federal activities.
Earthquake (C) Study Group did not meet at the National Meeting
1. Discussed Plans by Plenary to Consider Adoption of Model #705 as an Additional Part A Standard for Accreditation Purposes

Mr. Provost said adoption of the Model Risk Retention Act (#705) as an Additional Part A Standard for accreditation purposes will be considered by the NAIC membership at the Spring National Meeting. Ms. Jacobi provided a background of the process. She said California chaired the Risk Retention Handbook and Model Law Amendment (C) Subgroup that initially adopted the corporate governance standards within Model #705. She said these were revisions were adopted by Executive (EX) Committee and Plenary in December 2011, along with a recommendation that the standards become accreditation standards. She said a 2005 U.S. Government Accountability Office (GAO) report was the catalyst for the NAIC taking action. The GAO report raised the issue about the need for common regulatory standards and greater consumer protection related to risk retention groups (RRGs).

Ms. Jacobi said the NAIC originally adopted corporate governance standards for RRGs in 2007 as separate stand-alone guidance that was not incorporated into the accreditation standards. She said, at one time, these corporate governance standards were part of a federal bill that was not enacted into law. She said the Risk Retention (C) Working Group received a charge to address the guidance as a model to forestall federal action. She said the Subgroup decided to incorporate the corporate governance standards into Section 3 of Model #705 having to do with RRGs chartered in the states. Once a state enacts the law, the domestic regulator will enforce the standards. She said the standards in Model #705 would go into effect one year after a state enacts the law for existing RRGs and upon licensure for new RRGs. She said one important reform is that a majority of the board of directors be independent. She said a director can be affiliated, but the majority of the board must be independent. The definition of “independent” takes into account unique features of RRGs and does not disqualify owners and insureds of the RRG, because RRGs are owned by their insureds. Model #705 requires the board to make a determination regarding whether a director has a material relationship. There are a series of questions that help to determine independence. Ms. Jacobi said the Subgroup spent a considerable amount of time on the edits and received input from numerous interested parties in open session.

Mr. Provost said the revisions to Model #705 were in direct response to the GAO report, which came about by a request from the U.S. Congress. He said RRGs make up a healthy market and they often outperform traditional insurers, but there have been concerns about how RRGs operate. He said there may not be a direct counterpart in terms of corporate governance standards in a single model law for traditional insurers, but the standards exist in several model laws.

Derek Wooley (Goldwater Taplin) said he has concerns with the definitions in the corporate governance standards, such as “material relationship.” David Snyder (Ethos Group Holdings) said the revised Model #705 provides statutory redundancy in light of the fact that all states have RRG codes or frameworks. He said RRGs are being treated differently from traditional insurers, noting that he has proposed alternatives in his comment letter. Mr. Snyder said the GAO report was released 10 years ago, and he questioned whether the best interests of the NAIC are being served by revisions to Model #705. He said the GAO has no authority to dictate actions taken by the NAIC. He said corporate governance provisions within Model #705 would invite federal intervention. He also said the GAO report was based on the flawed premise that management companies would control RRGs. He said matters of corporate governance should remain within the provisions of state corporate statutes. He said RRGs are strong and viable insurers compared to traditional insurers. Mr. Snyder also said no states have yet adopted the revised Model #705. He asked that the proposed accreditation standard be retracted or modified.

Josh Larman (OMS National Insurance Company) said Model #705 has broader corporate governance standards than the Insurance Holding Company System Regulatory Act (#440). He said clarification is needed to the corporate governance standards within Model #705. He said an executive officer of a RRG would be deemed as having a material relationship if they are simultaneously serving on the board of a subsidiary company within the RRG holding structure without any inherent
Mr. Provost said a Vermont bill to revise its Model Risk Retention Act has passed the Vermont Senate and is in the Vermont House of Representatives. He said Vermont is “ahead of the curve” in identifying any operational issues and will let other regulators know of any issues. He said individuals can still serve on the board of an RRG, even though they are not independent directors. Mr. Matthews said a Montana bill has passed the Montana Senate and is before the Montana House of Representatives, and he expects the bill to pass. He said RRGs are different than traditional P/C companies and have different requirements, such as lower capital and surplus requirements and no guaranty funds. He said there are reasons for different standards between RRGs and traditional insurers.

Mr. Provost asked whether the standards will be brought before legislatures in South Carolina and Illinois, the domiciliary states of the two companies that submitted comments. Mr. Larman said he will speak with the new Illinois director. Mr. Snyder said he has spoken with Director Raymond G. Farmer (SC). Mr. Branum said Director Farmer is supportive of Mr. Snyder’s position.

Ms. Jacobi said California has enacted the model amendments. She also said the relationship materiality requirement is tailored to the RRG situation. She said a person is only not independent if the director or a family member is employed as an executive of an affiliate where any of the RRG’s present executives also serve on that affiliate’s board. She said this was meant to address the GAO concern regarding entrepreneurial RRGs. Ms. Jacobi said she would discuss this section with Mr. Larman. Mr. Snyder said it appears that being a direct or indirect owner is predicated on the board making a determination about independence. He asked whether this would put liability on directors. Ms. Jacobi said the responsibility is on the board. She said RRGs are owned by policyholders, which is unique to the RRG business model.

Jim McIntyre (McIntyre and Lemon), representing the Vermont Captive Insurance Association (VCIA), said he worked with the NAIC and raised many issues and worked out acceptable language. He said the VCIA has no objections to the corporate governance standards becoming accreditation standards. Skip Myers (NRRA) said that NRRA has no official position on the matter. He said it is a fact that RRGs are the result of a federal statute that preempts state laws. This provides the background, along with the GAO report, for how the standards came about. He said there is a lack of clarity on the definition of “independent.” He said he interprets Model #705 to be saying that, if one is an owner or a designated representative of an owner, one is independent unless meeting one of the other relationships within Model #705, such as being on the board of an auditing company with an RRG. Ms. Jacobi said Mr. Myers’ interpretation is correct. Mr. Wooley asked if someone who receives compensation but is also a policyholder would be considered independent. Ms. Jacobi said the person would be considered independent unless he or she has one of the other relationships, noting that this is a unique distinction with RRGs. Mr. Wooley said this explanation answers a lot of his original questions. Mr. Snyder said this interpretation shows that some items need to be made clearer. Mr. Wooley asked whether changes to the Vermont bill would affect accreditation. Mr. Provost said the state law needs to be substantially similar to what accreditation requires.

Mr. Provost said the accreditation standards are now before Plenary, which could adopt them or perhaps send them back for additional work. Mr. Myers asked whether a drafting note could be added to Model #705 or if this would require the model being reopened. Julie Garber (NAIC) said Model #705 would probably have to be reopened in order to add a drafting note. Ms. Jacobi asked whether a frequently asked questions document could be placed on the NAIC website to address some of these concerns. Mr. Myer asked whether a drafting note would have more clout. Ms. Jacobi said that if the intent is to communicate information, an approach that issues a separate guidance document would work without delaying the process. Ms. Garber said the new accreditation standard would be required Jan. 1, 2017, for states. She said reopening the model would create potential issues with this accreditation requirement.

Having no further business, the Risk Retention (C) Working Group adjourned.
2015 Spring National Meeting  
Phoenix, Arizona

SHARING ECONOMY (C) WORKING GROUP  
Saturday, March 28, 2015  
12:00 – 1:00 p.m.

Meeting Summary Report

The Sharing Economy (C) Working Group met March 28, 2015. During this meeting, the Working Group:

1. Adopted its March 5 and Jan. 21, 2015; and Dec. 18, and Nov. 16, 2014, minutes.

2. Discussed TNC Insurance Compromise Model Bill developed by Transportation Network Companies (TNCs), personal auto insurers and industry groups.

3. Adopted its white paper *Transportation Network Company Insurance Principles for Legislators and Regulators* with minor modifications discussed during the meeting.

4. Heard a report regarding TNC driver policies and endorsements in California.

5. Heard a presentation from the National Council on Compensation Insurance (NCCI) on workers’ compensation issues relative to TNC activities.
The Terrorism Insurance Implementation (C) Working Group met March 29, 2015. During this meeting, the Working Group:


2. Discussed provisions related to data collection contained within the Terrorism Risk Insurance Program Reauthorization Act of 2015. The Working Group agreed to seek industry opinion on the data elements and meet via conference call to discuss the matter further.
Meeting Summary Report

The Transparency and Readability of Consumer Information (C) Working Group met March 28, 2015. During this meeting, the Working Group:

1. Adopted its Nov. 16, 2014, minutes.

2. Discussed a referral from the Sharing Economy (C) Working Group regarding updating the NAIC Auto Shopping Tool to incorporate information regarding ridesharing.

3. Heard a presentation regarding improving service and communication with and ways to incorporate public data into a useable format.

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Consider an Extension for Revisions to the *Creditor-Placed Insurance Model Act* (#375)
DRAFTING NOTE: This bulletin was drafted to expedite the delivery of a common message to insurers related to implementation issues that have developed as a result of the extension of the Terrorism Risk Insurance Act. The basic bulletin recognizes that most jurisdictions have allowed some coverage limitations related to non-certified acts of terrorism that are affected by the reauthorization of the Act. A few jurisdictions have not generally allowed coverage limitations related to other acts of terrorism. Each state needs to review the provisions of the bulletin as they relate to the Act and to existing state regulatory requirements and determine which of its provisions relate to their specific situation. Please note that states might wish to distinguish between filing requirements that apply to admitted insurers and those applicable to surplus lines insurers.

The purpose of this bulletin is to advise you of certain provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015 amending and extending the Terrorism Risk Insurance Act of 2002 (the Act) by reauthorization, which may require insurers to submit a filing in this state of disclosure notices, policy language, and applicable rates as a result of the Act. For further details related to the Act, please consult the Act itself.

**Background**

Uncertainty in the markets for commercial lines property and casualty insurance coverage arose following the substantial loss of lives and property experienced on September 11, 2001. Soon after these tragic events, many reinsurers announced that they would no longer provide coverage for acts of terrorism in future reinsurance contracts. This led to a concerted effort on behalf of all interested parties to seek a federal backstop to facilitate the ability of the insurance industry to continue to provide coverage for these unpredictable and potentially catastrophic events. As a result, Congress enacted and the President signed into law in November 2002, the Terrorism Risk Insurance Act of 2002. This federal law provided a federal backstop for defined acts of terrorism and imposed certain obligations on insurers. The Act was extended for a two-year period covering Program Years 2006 and 2007, and for an additional seven years through December 31, 2014 with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007. The Act has now been extended again with the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2015.

The reauthorized Act, as amended and extended, included several changes including:

- Extending the program through December 31, 2020.
- Fixing the Insurer Deductible at 20% of an insurer’s direct earned premium of the preceding calendar year and the federal share of compensation at 85% of insured losses that exceed insurer deductibles until January 1, 2016, at which time the federal share shall decrease by 1 percentage point per calendar year until equal to 80%.
- Requiring the Secretary of the Treasury certify acts of terrorism in consultation with the Secretary of Homeland Security.
- Amending the program trigger to apply to certified acts with insured losses exceeding $100 million for calendar year 2015, $120 million for calendar year 2016, $140 million for calendar year 2017, $160 million for calendar year 2018, $180 million for calendar year 2019, and $200 million for calendar year 2020 and any calendar year thereafter.
- The mandatory recoupment of the federal share through policyholder surcharges increasing to 140 percent (from 133 percent).
- The insurance marketplace aggregate retention amount being the lesser of $27.5 billion, increasing annually by $2 billion until it equals $37.5 billion, and the aggregate amount of insured losses for the calendar year for all insurers. In the calendar year following the calendar year in which the marketplace retention amount equals $37.5 billion, and beginning
in calendar year 2020 it is revised to be the lesser of the annual average of the sum of insurer deductibles for all insurers participating in the Program for the prior three calendar years as such sum is determined by the Secretary of the Treasury by regulation.

- Requiring the Secretary of the Treasury, not later than nine months after the date of enactment of the Act, to conduct and complete a study on the certification process, including the establishment of a reasonable timetable by which the Secretary must make an accurate determination on whether to certify an act as an act of terrorism.
- Requiring insurers participating in the Program to submit to the Secretary of the Treasury for a Congressional report to be submitted on June 30, 2016 and every June 30 thereafter, information regarding insurance coverage for terrorism losses in order to evaluate the effectiveness of the Program. The information to be provided includes: lines of insurance with exposure to terrorism losses, premiums earned on coverage, geographical location of exposures, pricing of coverage, the take-up rate for coverage, the amount of private reinsurance for acts of terrorism purchased and such other matters as the Secretary considers appropriate. This information may be collected by a statistical aggregator and in coordination with State insurance regulatory authorities.
- Requiring the Comptroller General of the United States to complete a study on the viability and effects of the Federal Government assessing and collecting upfront premiums and creating a capital reserve fund.
- Requiring the Secretary of the Treasury to conduct a study not later than June 30, 2017 and every June 30 thereafter to identify competitive challenges small insurers face in the terrorism risk insurance marketplace.
- Requiring the Secretary of the Treasury to appoint an Advisory Committee on Risk-Sharing Mechanisms to provide advice, recommendations and encouragement with respect to the creation and development of nongovernmental risk-sharing mechanisms. The Advisory Committee will be composed of nine members who are directors, officers, or other employees of insurers, reinsurers or capital market participants.
- Changing the terms “program year” and “transition period” to “calendar year” throughout.

**Definition of Act of Terrorism**

Section 102(1) defines an act of terrorism for purposes of the Act. Please note that the unmodified reference to “the Secretary” refers to the Secretary of the Treasury. The revised Section 102(1)(A) states, “The term 'act of terrorism’ means any act that is certified by the Secretary, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—(i) to be an act of terrorism; (ii) to be a violent act or an act that is dangerous to—(I) human life; (II) property; or (III) infrastructure; (iii) to have resulted in damage within the United States, or outside the United States in the case of—(I) an air carrier or vessel described in paragraph (5)(B); or (II) the premises of a United States mission; and (iv) to have been committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.” Section 102(1)(B) states, “No act shall be certified by the Secretary as an act of terrorism if—(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers’ compensation; or (ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed $5,000,000.” Section 102(1)(C) and (E) specify that the determinations are final and not subject to judicial review and that the Secretary of the Treasury cannot delegate the determination to anyone.

**Submission of Rates, Policy Form Language and Disclosure Notices**

If an insurer relies on an advisory organization to file loss costs and related rating systems on its behalf, no rate filing is required unless an insurer plans to use a different loss cost multiplier than is currently on file for coverage for certified losses. Insurers that develop and file rates independently may choose to maintain their currently filed rates or submit a new filing. The rate filing should provide sufficient information for the reviewer to determine what price would be charged to a business seeking to cover certified losses. This state will accept filings that contain a specified percentage of premium to provide for coverage for certified losses. Insurers may also choose to use rating plans that take into account other factors such as geography, building profile, proximity to target risks, and other reasonable rating factors. The insurer should state in the filing the basis that it has for selection of the rates and rating systems that it chooses to apply. The supporting documentation should be sufficient for the reviewer to determine whether the rates are excessive, inadequate or unfairly discriminatory. For the convenience of insurers, this state will waive its requirements for supporting documentation for rates for certified losses for filings that apply an increased premium charge of between 0% and [insert percentage of premium]% and do not vary by application of other rating factors.

*DRAFTING NOTE: Your state may find that it is in its best interest to waive supporting documentation requirements for filings within a specified range. If not, the last sentence should be eliminated.*

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DRAFTING NOTE: In past bulletins, some states included language similar to what is in the following paragraph concerning non-certified acts. Your state may wish to evaluate whether such language is needed.

This state will not allow exclusions of coverage for acts of terrorism that fail to be certified losses solely because they fall below the $5,000,000 threshold in Section 102(1)(B) on any policy that provides coverage for acts of terrorism that fail to be certified. Insurers required to file policy forms may submit language containing coverage limitations for certified losses that exceed $100 billion in the aggregate.

Insurers subject to policy form regulation must submit the policy language that they intend to use in this state. The policy should define acts of terrorism in ways that are consistent with the Act, as amended, state law and the guidance provided in this bulletin. The definitions, terms and conditions should be complete and accurately describe the coverage that will be provided in the policy. Insurers may conclude that current filings are in compliance with the Act, as amended, state law and the requirements of this bulletin.

DRAFTING NOTE: Additional filings may be necessary under state law.

A change introduced in the Terrorism Risk Insurance Program Reauthorization Act of 2007 was a disclosure requirement for any policy issued after the enactment of the Act. Specifically, in addition to other disclosure requirements previously contained in TRIA, insurers since 2007 have had to provide clear and conspicuous disclosure to the policyholder of the existence of the $100 billion cap under Section 103(e)(2), at the time of offer, purchase, and renewal of the policy.

The [insert applicable term—commissioner, director, superintendent, insurance administrator] requests that the disclosure notices be filed for informational purposes, along with the policy forms, rates and rating systems as they are an integral part of the process for notification of policyholders in this state and should be clear and not misleading to business owners in this state. The disclosures should comply with the requirements of the Act, as amended, and should be consistent with the policy language and rates filed by the insurer.

DRAFTING NOTE: Your state may require disclosure notices be filed as a policy form, and not for informational purposes. If so, the second to the last sentence should be modified to eliminate the reference to informational purposes.

Given that the provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2015 are already in effect, and insurers and advisory organizations must accelerate filing activity in order to achieve compliance with the revised provisions of TRIA, this state will permit insurers and advisory organizations to place new rates, policy forms and disclosure notices into immediate use without receiving prior approval from the [insert applicable term—commissioner, director, superintendent, insurance administrator] [NOTE: if state law requires a waiting period for filings, that can also be waived by using the following phrase: “…into immediate use without waiting for the tolling of the statutory waiting period.”]

DRAFTING NOTE: Waiving this requirement will enhance the revised products’ speed to market and minimize insurers’ operational costs and delays.

If an insurer wants to take advantage of this voluntary speed to market initiative for revised terrorism products, it should complete the attached Expedited SERFF Filing Transmittal Document for Terrorism Risk Insurance Forms and Pricing, and certify on the form that it is in compliance with the terms of the Terrorism Risk Insurance Program Reauthorization Act of 2015 and the laws of this state. Completion of the Expedited SERFF Filing Transmittal will also relieve an insurer from having to complete any other filing form or supplementary exhibit that is normally required to accompany filings.

DRAFTING NOTE: Some states may not require the Expedited SERFF Filing Transmittal Document and some states may require additional information.

[If needed, state-specific requirements should be inserted here.]

DRAFTING NOTE: A state should choose one of the following paragraphs depending on whether or not the state mandates the use of SERFF.

For states mandating SERFF:
Filers should use the SERFF system for submitting such filings. Filers should use the term “TRIA2015” in the product name field in SERFF to indicate a filing related to terrorism made in connection with the Terrorism Risk Insurance Program.
Reauthorization Act of 2015. The SERFF system alleviates the need to provide additional information in support of a request for expedited review, although some states may have additional requirements.

For other states:
We encourage filers to take advantage of the SERFF system for submitting such filings. Filers should use the term “TRIA2015” in the product name field in SERFF to indicate a filing related to terrorism made in connection with the Terrorism Risk Insurance Program Reauthorization Act of 2015. The SERFF system alleviates the need to provide additional information in support of a request for expedited review, although some states may have additional requirements.

Optional Provision for Standard Fire Policy States

DRAFTING NOTE: This is an optional section for those states that have a statutory Standard Fire Policy that does not permit terrorism exclusions. States should also consider whether their Standard Fire Policy includes or excludes commercial inland marine coverages and inform insurers concerning this subject.

In this state, the requirements for fire coverage are established by law and where applicable, must meet or exceed the provisions of the Standard Fire Policy. These legal requirements cannot be waived. Thus, a business cannot voluntarily waive this statutorily mandated coverage.

Provision for Workers’ Compensation Policies

Workers’ compensation insurance coverage is statutorily mandated for nearly all U.S. employers and exemptions are barred in all states. Thus, a business cannot voluntarily waive workers’ compensation insurance (or terrorism coverage provided by a workers’ compensation insurance policy), nor can an insurer exempt terrorism risk from a workers’ compensation policy.

Effective Date

This bulletin shall take immediate effect and shall expire on December 31, 2020, unless Congress extends the duration of the Act.
Disclosure No. 1

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 85% THROUGH 2015; 84% BEGINNING ON JANUARY 1, 2016; 83% BEGINNING ON JANUARY 1, 2017; 82% BEGINNING ON JANUARY 1, 2018; 81% BEGINNING ON JANUARY 1, 2019 and 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A $100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS’ LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS $100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED $100 BILLION, YOUR COVERAGE MAY BE REDUCED.

Acceptance or Rejection of Terrorism Insurance Coverage

| I hereby elect to purchase terrorism coverage for a prospective premium of $   |
| I hereby decline to purchase terrorism coverage for certified acts of terrorism. I understand that I will have no coverage for losses resulting from certified acts of terrorism. |

Policyholder/Applicant’s Signature: ____________________________

Insurance Company: ____________________________

Print Name: ____________________________

Policy Number: ____________________________

Date: ____________________________
POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE

Coverage for acts of terrorism is included in your policy. You are hereby notified that under the Terrorism Risk Insurance Act, as amended in 2015, the definition of act of terrorism has changed. As defined in Section 102(1) of the Act: The term “act of terrorism” means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion. Under your coverage, any losses resulting from certified acts of terrorism may be partially reimbursed by the United States Government under a formula established by the Terrorism Risk Insurance Act, as amended. However, your policy may contain other exclusions which might affect your coverage, such as an exclusion for nuclear events. Under the formula, the United States Government generally reimburses 85% through 2015; 84% beginning on January 1, 2016; 83% beginning on January 1, 2017; 82% beginning on January 1, 2018; 81% beginning on January 1, 2019 and 80% beginning on January 1, 2020, of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The Terrorism Risk Insurance Act, as amended, contains a $100 billion cap that limits U.S. Government reimbursement as well as insurers’ liability for losses resulting from certified acts of terrorism when the amount of such losses exceeds $100 billion in any one calendar year. If the aggregate insured losses for all insurers exceed $100 billion, your coverage may be reduced.

The portion of your annual premium that is attributable to coverage for acts of terrorism is __________, and does not include any charges for the portion of losses covered by the United States government under the Act.

I ACKNOWLEDGE THAT I HAVE BEEN NOTIFIED THAT UNDER THE TERRORISM RISK INSURANCE ACT, AS AMENDED, ANY LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM UNDER MY POLICY COVERAGE MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT AND MAY BE SUBJECT TO A $100 BILLION CAP THAT MAY REDUCE MY COVERAGE, AND I HAVE BEEN NOTIFIED OF THE PORTION OF MY PREMIUM ATTRIBUTABLE TO SUCH COVERAGE.

Policyholder/Applicant’s Signature

Print Name

Date

Name of Insurer: ____________________
Policy Number: ____________________

DRAFTING NOTE: An insurer may choose not to use the acknowledgement section for workers’ compensation.
EXPEDITED SERFF FILING TRANSMITTAL DOCUMENT
FOR TERRORISM RISK INSURANCE FORMS AND PRICING

<table>
<thead>
<tr>
<th>Indicate Type of Filing</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Filing Related to Certified Losses</td>
</tr>
<tr>
<td>☐ Filing Related to Non-Certified Losses</td>
</tr>
<tr>
<td>☐ Filing Applicable to Both Certified and Non-Certified Losses</td>
</tr>
</tbody>
</table>

This abbreviated filing transmittal document should be used in conjunction with a SERFF filing only.

To be complete, a filing must include the following:
- A completed Expedited SERFF Filing Transmittal Document.
- One copy of each endorsement, disclosure form and/or other policy language, unless the insurer has given an advisory organization authorization to file them on its behalf.
- A copy of the rates, rating systems and supporting documentation, if applicable.
- The appropriate filing fees, if applicable

The insurer(s) submitting this filing certifies that it:
- ☐ Is in compliance with the terms of the Terrorism Risk Insurance Act, as amended, and/or the laws of this state; and
- ☐ Is in compliance with the requirements of the bulletin containing the voluntary expedited filing procedures.

Electronic Signature: [This would be replaced with a prompt for an Adobe electronic signature.]
EXPEDITED SERFF FILING TRANSMITTAL DOCUMENT
FOR TERRORISM RISK INSURANCE FORMS AND PRICING

Indicate Type of Filing
☐ Filing Related to Certified Losses
☒ Filing Related to Non-Certified Losses
☐ Filing Applicable to Both Certified and Non-Certified Losses

This abbreviated filing transmittal document should be used in conjunction with a SERFF filing only.

To be complete, a filing must include the following:
• A completed Expedited SERFF Filing Transmittal Document.
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• A copy of the rates, rating systems and supporting documentation, if applicable.
• The appropriate filing fees, if applicable

The insurer(s) submitting this filing certifies that it:
☒ Is in compliance with the terms of the Terrorism Risk Insurance Act, as amended, and/or the laws of this state; and
☒ Is in compliance with the requirements of the bulletin containing the voluntary expedited filing procedures.

Electronic Signature: [This would be replaced with an actual Adobe electronic signature,]
Consider Adoption of a Blanks Proposal Related to the Collection of Cyber Insurance Data
CYBERSECURITY INSURANCE COVERAGE SUPPLEMENT
For The Year Ended December 31, 20__
(To Be Filed by April 1)

NAIC Group Code___________________    NAIC Company Code___________________

Company Name ________________________________________________________________________________

If the reporting entity writes any cybersecurity coverage, please provide the following:

1. **Standalone Policies**

<table>
<thead>
<tr>
<th>Direct Premiums</th>
<th>Direct Losses</th>
<th>Direct Defense and Cost Containment</th>
<th>Number of Policies in Force</th>
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<td>4 Incurred</td>
</tr>
<tr>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

1.1 What is the range of the limits offered for the standalone policy? $________ to $________

2. **Commercial Multiple Peril Package Policies:**

   2.1 Does the reporting entity provide cybersecurity coverage as part of a package policy? Yes[ ] No[ ]

   2.2 If the answer to 2.1 is yes, please provide the following:

<table>
<thead>
<tr>
<th>Direct Losses</th>
<th>Direct Defense and Cost Containment</th>
<th>Number of Policies with cybersecurity coverage in Force</th>
</tr>
</thead>
<tbody>
<tr>
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<td>2 Paid + Change in Case Reserves</td>
<td>3 Paid + Change in Case Reserves</td>
</tr>
<tr>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

2.3 Can the direct premium earned for the cybersecurity coverage provided as part of a package policy be quantified or estimated? Yes[ ] No[ ]

2.4 If the answer to question 2.3 is yes, provide the quantified or estimated direct premium earned amount for cybersecurity coverage included in package policies

   2.41 Amount quantified: $________

   2.42 Amount estimated using reasonable assumptions: $________

2.5 What is the range of limits offered for the cybersecurity policies? $________ to $________

3. If the cybersecurity policy is a Claims Made policy, is tail coverage offered? Yes[ ] No[ ]

   3.1 If tail coverage is offered, what is the range of the limits offered? $________ to $________
CYBERSECURITY INSURANCE COVERAGE SUPPLEMENT

This supplement should be completed by those reporting entities that provide cybersecurity coverage in a standalone policy or as part of a commercial multiple peril package policy. The supplement should be reported on a direct basis (before assumed and ceded reinsurance).

Cybersecurity

Coverage for damages arising out of unauthorized use of, or unauthorized access to, electronic data or software within your network or business.

Line 1  Direct premiums, losses and defense and cost containment expenses for standalone policies are to be reported before reinsurance for columns 1 through 6.

For columns 7 and 8, provide the number of in force standalone policies that are claims made vs. occurrence.

Line 1.1  Provide the range of the limits offered for standalone policies.

Line 2.2  Direct losses and defense and cost containment expenses for commercial multiple peril package policies are to be reported before reinsurance for Columns 1 through 4.

For Columns 5 and 6, provide the number of in force multiple peril policies containing cybersecurity coverage that are claims made vs. occurrence.

Line 2.4  If the answer to 2.3 is “yes,” provide the amount of direct premium earned (qualified or estimated) for cybersecurity coverage included in package policies before reinsurance.

Line 2.5  Provide the range of limits offered for the commercial multiple peril package cybersecurity policies.

Line 3.1  If the answer to 3 is yes, provide the range of limits offered for tail coverage.
Cybersecurity Blanks Proposal
Comments Received
March 23, 2015

Commissioner Adam Hamm, Chair
Cybersecurity (EX) Task Force
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108

Attn: Pamela Simpson, Senior Administrative Assistant
Via e-mail: psimpson@naic.org

Re: Cybersecurity (EX) Task Force – Draft Cybersecurity Guiding Principles

Dear Commissioner Hamm:

Thank you for the opportunity to comment on the Draft Principles for Effective Cybersecurity Insurance Regulatory Guidance ("Draft Principles") and the proposed Cybersecurity Insurance Coverage Supplement ("Supplement").

At the outset, ACE wishes to commend the NAIC for establishing the Cybersecurity Task Force. ACE is committed to safeguarding the sensitive personal and financial information of all of its customers as well as our own proprietary and confidential information and believes that meaningful regulatory guidance can play a vital role in helping us fulfill this commitment. To the extent that the Draft Principles focus on the systems that carriers, producers and service providers employ to protect against data breaches, we believe they represent a positive, if somewhat broad-based first step; we are confident that as the Task Force’s work proceeds with input from stakeholders that focus will sharpen.

We do, however, have concerns with the Draft Principles insofar as they address issues related to the regulation of cyber insurance. Principle 17, for example, calls for "enhanced solvency oversight" for insurers that sell cyber coverage. ACE believes that such oversight is unnecessary. As with all insurance products, issuing cyber coverage involves prudent underwriting and appropriate pricing using actuarially sound, adequate rates. Regulators already have myriad tools at their disposal that are sufficient to ensure that carriers writing cyber coverage do so in a manner that is fiscally prudent and appropriate for the marketplace. Adding additional layers of regulation aimed specifically at cyber insurance will merely add frictional cost and expense to the products with no greater protection for consumers. In our view the Draft Principles will be most effective if their focus remains on developing optimal procedures and systems to prevent cyber attacks.

We also have concerns with the proposed Supplement. While we appreciate the NAIC’s desire to understand the cyber security market, the Supplement does not sufficiently account for the variety of ways in which cyber coverage is issued. For example, the Supplement breaks cyber security coverage into
two main categories: "Standalone" and as a component of a Commercial Multi Peril Package. This approach, however, ignores other products in which cyber coverage might be available, as well as the types of cyber risks covered by each. As a result, carriers may have difficulty providing the type of consistent, accurate data that would give regulators a truer picture of the marketplace. As with the Draft Principles, we believe the focus of the Supplement needs to be refined. We offer the following additional comments on specific provisions of the Draft Principles.

- We presume the term "consumer" in Principle 1 is intended to refer to corporate entities as well as individuals. Indeed a wide variety of proprietary and confidential data is regularly exchanged between insurers and corporate commercial clients. Principle 1 should be clarified to include the sensitive information of both corporate and individual consumers.

- In this same vein, we recommend that the language "sensitive customer health and financial information" in the second line of the draft of Principle 2 be changed to "sensitive customer information, including health, financial and personal data."

- While the National Institute of Standards and Technology Cybersecurity Framework ("NIST") referenced in Principle 5 is one source of standards for managing critical cyber security infrastructure it is not the only one. The Principle should be clarified to state that other comparable or superior sources should be acceptable, or modified to reflect the mandate of Executive Order 13636. We would suggest the following language as one possible approach: "Principle 5: Compliance with cybersecurity regulatory guidance must be flexible, scalable, practical and consistent with the national efforts to reduce cyber risks to critical infrastructure."

- It is unclear whether Principle 8 is aimed at the financial impact of cyber security infrastructure and consumer data protection or the regulation of insurance products covering cyber security. As noted above, ACE believes that financial and market conduct issues related to the regulation of cyber insurance should be left to traditional systems of product/solvency regulation. Principle 8 should be revised accordingly.

- It is unclear what the term "essential cybersecurity information" refers to in Principle 11: The insurer's own corporate confidential information? Consumer information? This should be clarified.

- As with Principle 8, it is unclear if the focus in Principle 12 is the risks presented by the reporting entity's systems for managing its own internal cyber risks, the risks that it is assuming as a cyber insurer or both. This too, should be clarified.

- While ACE agrees that encryption can be an effective safeguard for protecting sensitive information, it is only one of the cyber protection tools available to carriers. Other tools such as masking and tokenization can also be effective and in some instances may be more appropriate than encryption. Principle 15 should recognize this.

- With respect to Principle 18, we again state our position that regulators currently have sufficient procedures and resources at their disposal to regulate the cyber insurance market without adding a further layer of regulation. Hence, we believe Principle 18 should be eliminated.

ACE appreciates the opportunity to comment on the Draft Principles and Supplement. As noted we remain committed to developing and implementing the strongest possible systems and procedures to protect our own sensitive data and that of our customers, and would be pleased to discuss our views further with members of the Task Force.

Very truly yours,
March 23, 2015

VIA Electronic Mail: abrandenburg@naic.org

Aaron Brandenburg, Statistical Information Manager
NAIC Central Office
1100 Walnut, Suite 1500
Kansas City, MO 64106-2197

RE: “Cybersecurity Insurance Coverage Supplement” – Blanks Proposal

Dear Mr. Brandenburg:

The American Insurance Association (AIA) appreciates the opportunity to provide comments on the “Cybersecurity Insurance Coverage Supplement” – Blanks Proposal (Proposal). AIA represents approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to U.S. consumers and businesses, writing nearly $117 billion annually in premiums. Our membership includes U.S. insurers that write insurance only within the U.S., U.S. insurers that write insurance inside and outside the U.S., and the U.S. subsidiaries of multi-national insurers.

AIA understands why there is a desire for information related to cybersecurity insurance; however, we are unclear as to what regulators are looking to discern from this Proposal. Why the particular concern with solvency for cyber coverage?

Fundamentally, one of the main concerns with the Proposal is that it does not account for the unique nature of what a “cybersecurity policy” is. Cybersecurity is a broad term that can encompass many different insurance products. While the Proposal provides a definition for cybersecurity, what is “cybersecurity insurance” for the purposes of this Proposal? Is the intent of this Proposal to elicit information on cyber-like coverages that might be covered under a traditional policy (i.e. cyber extortion under a Kidnap and Ransom policy)? Further, insurers will differ on what is a “cybersecurity insurance” product. For example, ISO has described cybersecurity as “E-Commerce” or “Data Privacy and Security.”

AIA respectfully suggests that there needs to be more clarification around the data elements in this Proposal to ensure consistent reporting that will allow for a meaningful understanding of the market. Included below are some of the specific areas that raise questions or cause concern:

1. What is meant by losses (response reimbursement, business interruption, digital assets, liability coverages, etc.) Does the Proposal want first and third party losses?
2. What is meant by “Direct Defense” and “Cost Containment?”
3. How are we to identify “Policies in Force” when the policy could be a hybrid of claims made and occurrence based?
(4) There is no useful way of stating the range of limits. There could be a blend of first and third party coverages, so there could be a policy aggregate and sub-limits. Further, is this limited to a primary policy when the carrier is the sole insurer? If so, this could create additional confusion in the range of limits.

(5) Multi-peril coverage with cybersecurity may not be handled the same way. For example, premium associated with cyber may be able to be estimated in some situations and not in others.

(6) What is meant by “Tail Coverage?” A range of limits may not be possible in this situation.

(7) What is meant by “Paid + Change in Case Reserves?”

Finally, we want to emphasize that the information collected in this supplement is more detailed than what is typically reported in the yellow book for products, particularly counts and limits at the policy level. This is a highly competitive and emerging market and as such the type of data requested and the confidentiality protections in place should be given serious consideration.

Again, AIA appreciates the opportunity to comment and we look forward to working with Cybersecurity Task Force as you continue to consider collecting information on the cyber insurance market.

Respectfully submitted,

Angela Gleason
Associate Counsel
CEJ submits these comments on the draft cybersecurity insurance coverage supplement.

The proposed supplement is a basic summary of cybersecurity policies and coverage offered by an insurer. It would be useful as basic information for regulators and the public to see who is actually writing cyberinsurance policies and coverages. However, it is unclear how the proposed supplement would be used by either financial or market regulators for more than simply identifying insurers who offer and sell the coverage. The supplement would not enable regulators to differentiate claims experience relative to premiums (loss ratios), differentiate claims experience for claims made vs. occurrence policies, differentiate policies with minimal exposure vs. substantial exposure for the insurer or identify the frequency of coverage limits employed. For example, the range of coverage limits might be $5,000 to $5,000,000, but without knowing the number of policies or coverages with $5,000 or $5,000,000 limits or amounts in between, the information has little value to financial regulators attempting to assess an insurer's exposure.

We suggest that the public supplement be accompanied by a non-public list of all policies which provide cybersecurity coverage. Each record would be a policy with the following fields:

1. Policy Identifier
2. Standalone or CMP coverage
3. Single State or Multiple State Coverage
4. Effective Date
5. Term of Coverage
6. Policy Form Identifier
7. Claims Made or Occurrence Coverage
8. Direct Premiums Written (If CMP policy, estimate premium portion for cybersecurity coverage)
9. Direct Premiums Earned (If CMP policy, estimate premium portion for cybersecurity coverage)
10. Direct Losses Paid (If CMP policy, report only for cybersecurity coverage)
11. Direct Losses Incurred (If CMP policy, report only for cybersecurity coverage)
12. Loss Case Reserve Beginning of Period (If CMP policy, report only for cybersecurity coverage)
13. Loss Case Reserve End of Period (If CMP policy, report only for cybersecurity coverage)
14. DDCC Paid (If CMP policy, report only for cybersecurity coverage)
15. DDCC Case Reserve Beginning of Period (If CMP policy, report only for cybersecurity coverage)
16. DDCC Case Reserve End of Period (If CMP policy, report only for cybersecurity coverage)
17. Date Claim Received by Insurer
18. Date Claim Denied by Insurer, if denied
19. Date Claim Paid by Insurer, if paid
20. Claim Subject to Litigation (y/n)

The policy-level data would provide essential information to both financial and market regulators. For financial regulators, the detailed information would allow assessment of cyberthreat exposure to the insurer. For market regulators, the detailed information would allow assessment of the frequency and severity of claims and, consequently, the general reasonableness of rates. The loss ratio information would inform market regulators regarding policyholder understanding of policy forms and related claims settlement practices. In total, the data would provide regulators with the necessary information to monitor cyberinsurance markets and practices.

Birny Birnbaum
# CYBERSECURITY INSURANCE COVERAGE SUPPLEMENT

For The Year Ended December 31, 20___
(To Be Filed by April 1)

NAIC Group Code __________________________ NAIC Company Code __________________________

Company Name
____________________________________________________________________________________

If the reporting entity writes any cybersecurity coverage, please provide the following:

1. **Standalone Policies**

<table>
<thead>
<tr>
<th>Direct Premiums</th>
<th>Direct Losses</th>
<th>Direct Defense and Cost Containment</th>
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</tr>
<tr>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

1.1 What is the range of the limits offered for the standalone policy? $___________ to $___________

2. **Commercial Multiple Peril Package Policies:**

2.1 Does the reporting entity provide cybersecurity coverage as part of a package policy? Yes[ ] No[ ]

2.2 If the answer to 2.1 is yes, please provide the following:

<table>
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<th>Direct Premiums</th>
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<td>3 Paid</td>
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<tr>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>

2.3 Can the direct premium earned for the cybersecurity coverage provided as part of a package policy be quantified or estimated? Yes[ ] No[ ]

2.4 If the answer to question 2.3 is yes, provide the quantified or estimated direct premium earned amount for cybersecurity coverage included in package policies

2.4.1 Amount quantified: $_______

2.4.2 Amount estimated using reasonable assumptions: $_______

2.5 What is the range of limits offered for the cybersecurity policies? $_______ to $_______

3. **If the cybersecurity policy is a Claims Made policy, is tail coverage offered?** Yes[ ] No[ ]

3.1 If tail coverage is offered, what is the range of the limits offered? $_______ to $_______

© 2015 National Association of Insurance Commissioners

Draft: 3/6/15
CYBERSECURITY INSURANCE COVERAGE SUPPLEMENT

This supplement should be completed by those reporting entities that provide cybersecurity coverage in a standalone policy or as part of a commercial multiple peril package policy. The supplement should be reported on a direct basis (before assumed and ceded reinsurance).

Cybersecurity

Coverage for damages arising out of unauthorized use of, or unauthorized access to, electronic data or software within your network or business.

Line 1 Direct premiums, losses and defense and cost containment expenses for standalone policies are to be reported before reinsurance for columns 1 through 6.

For columns 7 and 8, provide the number of in force standalone policies that are claims made vs. occurrence.

Line 1.1 Provide the range of the limits offered for standalone policies.

Line 2.2 Direct losses and defense and cost containment expenses for commercial multiple peril package policies are to be reported before reinsurance for Columns 1 through 4.

For Columns 5 and 6, provide the number of in force multiple peril policies containing cybersecurity coverage that are claims made vs. occurrence.

Line 2.4 If the answer to 2.3 is “yes,” provide the amount of direct premium earned (qualified or estimated) for cybersecurity coverage included in package policies before reinsurance.

Line 2.5 Provide the range of limits offered for the commercial multiple peril package cybersecurity policies.

Line 3.1 If the answer to 3 is yes, provide the range of limits offered for tail coverage.
March 23, 2015

Commissioner Adam Hamm  
Chair, Cybersecurity (EX) Task Force  
NAIC Central Office  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197  

Attn: Pamela Simpson  
Via E-mail: psimpson@naic.org

Re: Principles for Effective Cybersecurity Insurance Regulatory Guidance and the Annual Statement Supplement for Cybersecurity

Dear Commissioner Hamm:

The National Association of Mutual Insurance Companies (NAMIC) appreciates the opportunity to comment on the recently exposed Principles for Effective Cybersecurity Insurance Regulatory Guidance and the Annual Statement Supplement for Cybersecurity.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country’s largest national insurers. NAMIC consists of more than 1,300 property/casualty insurance companies serving more than 135 million auto, home, and business policyholders, with more than $208 billion in premiums accounting for 48 percent of the automobile/homeowners market and 33 percent of the business insurance market. More than 200,000 people are employed by NAMIC member companies.

**Process and Timing**

Before addressing the substance of the exposures we would like to offer some general thoughts about process and timing. As a general matter it is certainly not inappropriate for the NAIC to explore what it could be doing to support states’ efforts to protect regulated entities and ultimately consumers from cyber threats. And given the recent well-publicized breaches experienced by large companies including insurers it is not surprising to see the NAIC moving assertively in this area. However, the degree to which the NAIC seems to be accelerating efforts to quickly get something done is notable and potentially of concern.
When the Cybersecurity (EX) Task Force was created in November of last year, its adopted charges focused on monitoring and coordination and did not indicate plans to develop regulatory measures. The first indication that such was contemplated seems to have come in the NAIC’s National Meeting Preview which states, “Task Force will review comments received on its proposed cybersecurity guiding principles and will perhaps consider adoption of the guiding principles.”

The Preview is dated February 20, 2015 yet the principles were not exposed until March 12. Meanwhile, there is no record of the Task Force ever meeting until March 12 when it did so in a regulator-only session starting at 3 p.m. Eastern so it is hard to understand when the principles were even developed. We would note that the cited reason for the session to be closed, “Consideration of strategic planning issues relating to federal legislative and regulatory matters or international regulatory matters,” does not seem applicable to the development of the proposed principles since they are clearly meant to guide state regulatory activity.

Finally, when the documents were exposed, a mere seven business days were provided for submitting interested party comments. While we understand there is a sense of urgency surrounding cyber security issues we nevertheless feel is appropriate to make these observations and ask whether a rushed process could result in faulty policy. And given the extremely short exposure period we would characterize these comments as preliminary impressions and thoughts responsive to the exposures and subject to expansion in and modification as work on this issue develops.

**Proposed Regulatory Guidelines**

We appreciate the values expressed particularly in Principles 5 and 6, that any regulatory guidance should be flexible, scalable and practical, and that the guidance must consider the resources of the regulated entity. And while reference to the National Institute of Standards and Technology (NIST) is appropriate we would note that there are other standards that may be appropriate as well and the guidance should allow for consideration of them as well.

In Principle 7, we agree that guidance should be risk-based but it is not clear what it means for guidance to be “threat-informed.”

We have some concern about Principle 8, referring to regulatory oversight including financial and/or market conduct examinations could translate into a call for more exams or more extensive exams and that such activity could be expensive while of questionable utility. While cyber security should certainly be a part of an insurer’s Enterprise Risk Management processes as noted in Principle 12 it is not clear that it needs to be the subject of specialized exam processes.

One proposed principle that seemed inconsistent with the aforementioned flexibility is Principle 14, stating that it is “essential” regulated entities to join Financial Services Information Sharing and Analysis Center (FSISAC). We believe that regulatory guidance could encourage consideration of the value of joining such an organization but that stating it is essential may be premature or off the mark.
Some NAMIC members expressed concern with the breadth of Principle 15 calling for encryption of “Sensitive data collected and stored and transferred inside or outside of an insurers or insurance producers network.” There seems to be a view that encryption is one of a number of tools that can be utilized to protect sensitive data but that there are others that can be more cost-effective depending on the circumstances. There was also an observation that “sensitive data” can be defined in different ways and that it may be preferable to change that word to “Personally Identifiable Information” consistent with NIST terminology throughout the principles document.

There is a sentiment among some NAMIC members that Principles 17 and 18, calling for enhanced solvency oversight for insurers selling cyber insurance and the collection of additional data on the sale of cyber insurance are out of place in the regulatory guidance document and should be removed. Certainly, insurance regulators currently have all the regulatory tools they need to monitor insurers for solvency as they already do. While cyber insurance is a new and developing product it is not distinct from other new and developing products such that different regulatory practices are necessary.

**Proposed Annual Statement Supplement**

In general there were few concerns identified by NAMIC members with respect to the proposed annual statement supplement compared to the proposed regulatory principles. One concern noted that the level of detail called for in the supplement may be excessive and could undermine the competitive position of an insurer writing cyber insurance. There was also a suggestion that the supplement should include a means to provide information about reinsurance since that could significantly impact a company’s actual exposure to risk from cyber threats.

Thank you for your consideration of these comments on this matter of importance to NAMIC members and their policyholders.

Sincerely,

Paul Tetrault, JD, CPCU, ARM, AIM  
State & Policy Affairs Counsel  
(978) 969-1046  
ptetrault@namic.org
New Mexico Office of the Superintendent of Insurance
March 18, 2015

Thanks, Pam, for sending these Annual Statement pages. They look fine to me.

Alan Seeley, FCAS, MAAA
Acting Deputy Superintendent and Chief Actuary
New Mexico Office of the Superintendent of Insurance
phone: 505-827-4307
fax: 505-476-0326
North Carolina Department of Insurance  
March 17, 2015  

We have reviewed the document and the current draft looks good.  
Thanks,  

Tim Johnson, AU, API, AFIS  
P & C Operations Manager  
N.C. Department of Insurance  
Property & Casualty Division  
1201 Mail Service Center  
Raleigh, NC 27699-1201  
919-807-6084  
919-733-4264 (fax)  
timothy.johnson@ncdoi.gov
VIA EMAIL

March 23, 2015

Mr. Adam Hamm, Chair
Cybersecurity (EX) Task Force
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO  64108

Dear Mr. Hamm:

On behalf of PCI’s nearly one thousand members, we are pleased to submit these initial comments on the NAIC’s draft Principles for Effective Cybersecurity Insurance Regulatory Guidance and Blanks cybersecurity insurance coverage supplement. While cybersecurity is certainly receiving a great deal of scrutiny as of late, it’s important to remember that both regulators and property and casualty insurers have been effectively managing their own cyber risk for quite a long time. What is needed now is not increased oversight of insurers’ own cybersecurity but rather measures designed to facilitate the ability of insurers to satisfy a rapidly increasing demand for cybersecurity insurance. With that said, we offer the following specific comments on the two proposals.

Principles for Effective Cybersecurity Insurance Regulatory Guidance

While many of the concepts and ideas encapsulated by the principles are relatively benign, we are concerned with the publication of new principles, other than those already effectively practiced by regulators and insurers, in that such publication suggests that cybersecurity is either new or that the property and casualty insurance industry is not properly managing their cybersecurity. Property and casualty insurers have long been subject to rigorous state and federal privacy and information protection laws, and the track record of both regulators and the industry is excellent in this regard. Rather than adopt a list of principles, a much better approach is to issue a general policy statement to the effect that any new regulatory requirements with regards to insurers’ cybersecurity should be based only upon an objective finding of gaps and should recommend the least burdensome method of compliance.

With respect to specific principles, we offer the following observations:

- Principle 8 – as previously mentioned, insurers are already subject to regulatory oversight and required to file detailed reports with regards to enterprise risk and solvency. We are concerned that this principle seeks to impose yet another reporting requirement on insurers with respect to cybersecurity. Every effort should be made to limit duplicative requirements on insurers.
- Principle 11 - who exactly is sharing information with whom? Insurers with government agencies? Insurers with other insurers? Both? Additional clarity regarding this principle is needed.
- Principle 14 – there are numerous public and private sector entities that are focused on cybersecurity. Why identify a specific group to join rather than encourage insurers to investigate and consider joining any of the many such type of groups? We also wonder, again, with whom are insurers to share what kind of information? Additional clarity is required here.
- Principle 15 – we suggest that this principle focus on the protection of data generally, rather than mandating the use of any one particular means of doing so. To the extent the term “encryption” is used, it’s not clear what is meant by the term given that there are currently many standards of encryption currently available.

Blanks

We support adoption of the NAIC cybersecurity insurance coverage supplement form. The collection of information that the NAIC already collects with regards to other lines of insurance should also be collected with regards to cybersecurity insurance and will help inform public policy discussions.

Supporting the Growth of a Cyber Insurance Market

The greatest contribution the NAIC and state regulators could make is to work with the industry to identify where hurdles may exist to the offering of cybersecurity insurance. In addition, it would be beneficial if regulators could work in tandem with the industry to respond to federal inquires and also help foster the conditions where cybersecurity insurance can grow, consistent with sound financial management.

Based on the property and casualty insurer record in this area, there simply is no need for additional, intrusive regulation. Rather, we respectfully submit to you that a simple policy statement is better than any lengthy set of principles, many of which may very well cause needless complications. A much better approach to cybersecurity insurance is for the NAIC to work together with industry to help facilitate the continued development of the cybersecurity insurance market.

Sincerely,

Thomas M. Glassic
Vice President, Policy and Government Affairs
thomas.glassic@pciaa.net

Alex Hageli
Director, Personal Lines Policy
alex.hageli@pciaa.net

David Snyder
Vice President, International Policy
david.snyder@pciaa.net

Cc: Aaron Brandenburg
   Eric Nordman
There should be something in the supplement that differentiates First party vs. Third party limits for Cybersecurity.

Thanks,

Doug Graham | Underwriting Manager | Global Technology
Travelers
1 North Dale Mabry Highway | Suite 1005
Tampa, FL 33609
W: 813.357.7372   F: 866.895.7001
Consider Adoption of White Paper Related to Transportation Network Companies (TNCs)
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I. INTRODUCTION

Traditional ride-sharing, also known as carpooling, is covered by most personal auto policies (PAPs). But transporting passengers for a fee that exceeds the simple sharing of expenses is excluded in most PAPs. The coverage issues associated with transporting passengers in personal vehicles for a profit are the focus of this discussion of ride-hailing services, also known as transportation network companies (TNCs).

A TNC is an organization that arranges transportation for a fee using a technology platform such as mobile application (app) or website. TNCs create online apps that connect riders and drivers. Drivers use the online apps to sign up to provide rides for a fee. The TNC takes a portion of each fee. In order to open a TNC account, potential passengers first download the app and must provide credit card information for billing purposes and agree to the terms and conditions for use. The TNC terms and conditions generally indicate that the TNC is not the transportation provider and disclaims the safety of the driver among other disclaimers and notices. TNCs typically have driver requirements such as minimum age limits, valid driver’s license, current vehicle registration and insurance, at a minimum. Once the account is created, a potential rider simply logs onto the mobile app, enters his or her location and is matched with a driver in the vicinity.

The three most widely used TNCs are UberX (available in 53 countries and more than 140 U.S. cities), Lyft (available in at least 60 locations) and Sidecar (available in Boston; Charlotte, NC; Chicago; Long Beach, Los Angeles, Oakland, Marin and other San Francisco Bay Area cities; San Diego; Seattle; and Washington, DC).

Regulation of TNCs is in its infancy. The first step in regulating TNCs is to determine which state or local entity has authority over TNCs. Regulatory authority varies from state to state.

In California, TNCs are regulated on a statewide level by the California Public Utilities Commission (CPUC), while taxis are regulated by municipalities. The first government agency to impose standards for TNCs was the CPUC. Currently, many questions exist regarding proper regulation of this new service, as well as how to fill any insurance coverage gaps. Regulation of the traditional taxi or limousine service is much more developed. Historically, taxis and limousines are licensed by the state or municipal transportation authority. Taxis and limousines are required to be inspected, and drivers must be properly licensed typically through a commercial driver’s license. In addition, taxi operators are required to have commercial insurance in effect 24 hours a day, seven days a week that protects passengers and third parties (i.e., pedestrians or other drivers) in the event of an accident. Required insurance limits for taxis vary substantially by state and jurisdiction. Taxi drivers and their trade associations argue that TNCs are in the same business as taxis because they transport passengers for a fee and should be subject to the same insurance and licensing requirements.

TNCs have gained in popularity in dozens of U.S. cities over the past few years. However, new business ventures often come with new risks. In the case of TNCs, one of the main risks to consumers are coverage gaps such as those effecting the Liu family who were hit by a TNC
driver during Period 1, resulting in the death of 5 year old Sophia Liu and severe injuries to her mother and brother.

The insurance issues associated with TNC activities arise because TNC drivers use personal cars for that commercial activity but do not have commercial auto insurance. Drivers who are often new to the transportation business are transporting people they do not personally know. This activity has traditionally been the realm of commercial taxis. PAPs generally exclude this exposure by what is commonly called a “livery exclusion.” Livery exclusions were written because transporting passengers for a fee adds exposure and creates more risk than was contemplated by existing personal auto insurance rates or coverages. Personal auto insurers are concerned that they are experiencing losses from these additional exposures because their policyholders do not inform them that they drive for TNCs. From the personal auto insurer’s perspective, this activity may translate into increased risk of loss due to: 1) additional miles driven; 2) heightened geographic hazard caused because TNC drivers typically find matches in urban, high-traffic locations; 3) unfamiliar roads; 4) driver distraction caused by TNC apps; 5) more people in the car that can be injured; and 6) the additional risk caused as drivers rush to accept matches and pick up and deliver passengers in a timely manner.

II. COVERAGE ISSUES

Major coverage gaps will exist unless the TNC provides appropriate insurance coverage for TNC drivers during all TNC activities (i.e., from app on to app off), or the driver maintains appropriate coverage. For the driver to maintain coverage, either personal auto insurers would need to amend their livery exclusions, or a commercial coverage would need to be readily available along with a willingness of drivers to move to a commercial product.

Even though the largest TNCs provide commercial coverage, those TNC’s policies may not provide the same uninsured/underinsured motorist (UM/UIM) coverage, medical payments coverage, comprehensive coverage or collision coverage that the drivers had purchased in their personal auto policies. Drivers are often unaware of the extent of the livery exclusions. Other drivers are aware of the livery exclusions and simply hope for the best. The resulting gaps in coverage could affect the driver and his or her personal vehicle, any person suffering damages and also lienholders of vehicles used for TNC services. Auto lenders such as the California/Nevada Credit Union League are concerned that gaps in physical damage coverage could expose lenders to loss of collateral. Senate Bill 294 which is currently pending signature by the Governor in Utah provides that if a TNC vehicle has a lien, the TNC driver must notify the lienholder of their use of the vehicle for TNC services.

The common coverages in a PAP, all of which typically include exclusions for livery or carrying passengers for a fee, are: 1) liability coverage; 2) medical payments coverage; 3) uninsured/underinsured motorist coverage; and 4) physical damage coverages. Coverage gaps for TNC drivers may exist because TNCs do not require drivers to maintain commercial coverage. Instead, TNCs rely on a combination of the driver’s personal auto insurance and the TNC’s commercial insurance to cover the TNC activities. Many TNC drivers’ PAPs do not provide coverage when the driver is using his or her vehicle to transport passengers for a fee. Liability
insurance provides coverage for bodily injury or property damage caused by an auto accident for which the insured is legally responsible. In addition to payment for bodily injury and property damage, PAPs typically provide defense costs such as legal fees. Most PAPs are written on a split-limits basis. Policies written on a split-limits basis are stated with three types of limits: 1) bodily injury per person; 2) bodily injury per accident; and 3) property damage per accident. For example, if the policy limits are stated as 100/300/50, the limit of liability for bodily injury per person is $100,000, with a cap of $300,000 for bodily injury due to the accident and a maximum payment for property damages of $50,000. The alternative is to write policies on a combined single-limit basis, where one limit potentially applies to all bodily injury and property damage per accident.

Medical payment coverage applies regardless of fault and covers bodily injury to the named insured as well as family members and any passengers in the auto at the time of the accident. Personal injury protection provides coverage for basic expenses such as medical costs that an insured and his or her family may incur in a no-fault state. Roughly one-fourth of states in the U.S. have a form of no-fault automobile laws, meaning they allow auto accident victims to collect benefits from their own insurers regardless of who was negligent.

Uninsured motorist coverage provides compensation to the insured and their family members when an uninsured driver causes losses. Underinsured motorist coverage pays the insured or their family members when a driver causes losses that exceed the negligent driver’s policy limits.

Physical damage coverages include collision coverage and comprehensive coverage. Both coverages are written with deductibles, typically ranging from $250 to $1,000. Collision coverage pays for damages to an insured’s own vehicle resulting in an accident with another vehicle or an inanimate object. Comprehensive coverage, also known as other than collision coverage, protects against direct physical damage not caused by a collision.

The largest TNCs have responded to the issue regarding the livery exclusions in PAPs by providing liability, UM/UIM and comprehensive/collision coverages while the vehicle is being used to transport passengers for a fee. However, an issue remains regarding the point at which the vehicle is being used for a livery service. The issue is compounded by the fact that livery exclusions vary between policies, making it impossible to conclusively state when personal driving stops and commercial driving begins for each driver. Nevada statute takes the position that if a TNC driver does not disclose to their personal auto insurer their occasional use of the vehicle for transportation network services the policy may be canceled or coverage denied at any time during the policy term based on material representation. The question that each TNC driver must answer, based on his or her own PAPs language and state law, is: When does his or her personal auto coverage stop and the TNC’s commercial policy begin?

There are three exposure periods in the TNC business model. Period 1 is characterized as the point when the driver logs into the TNC application but is not matched with a passenger. Period 2 is when a match is made and accepted, but the passenger has not yet entered the vehicle. Period 3 is when the passenger has been picked up and is occupying the TNC driver’s vehicle. Most livery exclusions do not explicitly address TNCs because the exclusions were written before TNCs came into use. If there is ambiguous language in a policy exclusion, it can cause confusion.
regarding which policy, commercial or personal, covers each period and may lead to coverage disputes over claim payments.

<table>
<thead>
<tr>
<th>TNC Coverage Periods</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Period 1</td>
<td>Pre-match</td>
</tr>
<tr>
<td>Period 2</td>
<td>Match accepted -&gt; passenger pick up</td>
</tr>
<tr>
<td>Period 3</td>
<td>Passenger occupying the vehicle</td>
</tr>
</tbody>
</table>

The California Department of Insurance held an investigatory hearing March 21, 2014, relating to insurance issues for TNCs. As a result of the hearing, Insurance Commissioner Dave Jones recommended TNCs provide $1 million in primary liability insurance that begins the moment the driver switches on the app. The final law adopted in California provides for $1 million primary commercial auto insurance in Periods 2 and 3, but in Period 1 allows the TNC, the driver or a combination of the two to carry 50/100/30, with the TNC providing $200,000 in excess coverage.

Several TNCs have attempted to resolve coverage issues by purchasing primary liability and UM/UIM coverage for exposure Periods 2 and 3. According to its website, UberX maintains a “commercial insurance policy for ridesharing with $1 million of coverage per incident.” The website also states that the “policy covers drivers’ liability from the time a driver accepts your trip request through the app until the completion of your trip. This policy is expressly primary to the driver’s PAP. An additional insurance policy covers drivers when they are logged into the UberX app but have not yet accepted a trip request.” UberX also maintains “uninsured/underinsured motorist coverage (UM/UIM) of $1 million per incident for bodily injury in Period 2 and Period 3, in case another motorist causes an accident and doesn’t carry adequate insurance.”

UberX maintains contingent comprehensive and collision coverage with limits that mirror the drivers’ PAP in Periods 2 and 3. Lyft carries contingent comprehensive and collision coverage with a $2,500 deductible and a $50,000 maximum for physical damage to your vehicle.” UberX also maintains contingent coverage for Period 1 but with much lower limits. The chart below shows the insurance coverage provided by UberX, Lyft and Sidecar as described on their websites. Currently, the coverage provided by the largest TNCs during Period 1 is contingent coverage, meaning that it only pays claims if and when the claims are denied by the driver’s personal auto carrier.

There has been debate about the risk of driving (exposure) in Period 1 and whether it is similar to the risk of driving a personal vehicle without a TNC app being turned on. TNCs argue that Period 1 does not include any increased exposure caused by TNC activities. The reasoning behind this argument is that the driver does not yet have a passenger in the vehicle and is driving a known, rated vehicle. The contrary argument of most insurers and consumer groups is that
Period 1 presents an increased exposure because drivers are distracted while looking at the TNC app on their cellphone to find a passenger and may be rushing to locations that show passengers ready for pick-up. Few disagree that Period 2 and Period 3 include increased exposure due to having passengers in the car, loading and unloading passengers, and finding safe areas for pick-up and drop-off and perhaps driving unfamiliar routes. Others may argue that the exposure is increased in all three time periods because drivers-for-hire are more frequently in urban, often highly congested areas. For example, TNCs often provide rides to and from concerts and sporting events with increased congestion. Urban and highly congested areas are known for higher frequency of accidents and, therefore, are associated with higher insurance rates. Several states have identified the insurance coverage concerns and enacted legislation to fill some, but not all, of the coverage gaps.

<table>
<thead>
<tr>
<th>TNC</th>
<th>Insurer</th>
<th>Period 1</th>
<th>Periods 2 &amp; 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raiser LLC/UberX¹</td>
<td>James River</td>
<td>Contingent Liability ($50,000 per person/$100,000 per accident/$25,000 property damage)</td>
<td>• Commercial auto liability and uninsured motorist/underinsured motorist coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Contingent collision and comprehensive equal to the amount maintained by the driver in his or her PAP ($1,000 deductible)</td>
</tr>
<tr>
<td>LYFT²</td>
<td>James River</td>
<td>Contingent Liability ($50,000 per person/$100,000 per accident/$25,000 property damage)</td>
<td>• Commercial auto liability and uninsured motorist/underinsured motorist coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td>(valid in all states except New York)</td>
<td></td>
<td></td>
<td>• Contingent collision and comprehensive up to $50,000 per accident ($2,500 deductible)</td>
</tr>
<tr>
<td>SIDECAR³</td>
<td>Nautilus Insurance Company</td>
<td>Liability limits ($50,000 per person/$100,000 per accident/$30,000 property damage)</td>
<td>• Commercial auto liability and uninsured motorist/underinsured motorist coverage up to $1 million per occurrence</td>
</tr>
<tr>
<td>(liability limits differ for the state of Washington and for Chicago )</td>
<td></td>
<td></td>
<td>• Liability limits ($50,000 per person/$100,000 per accident/$30,000 property damage)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Contingent collision $50,000 per accident ($500 deductible)</td>
</tr>
</tbody>
</table>

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III. INSURANCE COVERAGE ISSUES

A. Insurance Company Perspective

The Insurance Services Office (ISO) countrywide PAP currently excludes liability coverage for any “insured,” or “for that insured’s liability arising out of the ownership or operation, of a vehicle while it is being used as a public or livery conveyance.” The ISO multistate exclusion currently exempts share-the-expense carpooling, meaning that the exclusion does not apply to share the expense of carpools. ISO state-specific endorsements may have additional exceptions to the livery exclusion. Non-ISO policy language may also contain exceptions such as operating an auto as a volunteer service for a nonprofit charitable organization or a governmental agency, or transporting physically or mentally handicapped persons or persons 60 years of age or older.

Other common livery exclusions exclude damages arising out of the ownership, maintenance, or use of a vehicle while it is being used: 1) to carry persons for a charge; 2) for commercial purposes; 3) for compensation; 4) for a fee; or 5) for hire.

Other policies exclude “any auto you are driving while available for hire by the public.” Livery exclusions commonly apply to: medical payments, personal injury protection, collision and comprehensive (other than collision), as well as UM/UIM coverage. The subtle nuances of the various livery exclusions are called into question as regulators, legislators, insurers and consumers attempt to identify coverage gaps between the personal auto policies owned by TNC drivers and the commercial policies owned by TNCs.

Generally, exclusions are used by insurers because the exposures are thought to be beyond those found in a typical policy for the type of property or activity being insured. Another reason for the exclusion may be that the coverage is associated with a rating plan for coverage of an alternate insurance product. Driving for a TNC fits both of those descriptions as it blurs the lines between personal and commercial risks and is considered extraordinary to the typical PAP. In order to include the risk in PAP, insurers would need to adjust their rating for the commercial exposure to ensure that all insureds were not subsidizing those additional risks for the small percentage of insureds actually driving for TNCs.

The general factors used to determine auto insurance rates are listed in the chart below. It should be noted that not all insurers use every factor and that some state laws prohibit or limit the use of some of the risk classification factors. Some of the reasons a TNC exposure may vary from a typical personal automobile exposure include:

- TNC drivers typically go to urban, congested areas in order to find matches. Urban areas are typically associated with a higher frequency of accidents and, therefore, command higher insurance rates.

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5 Not all states allow such exclusion under personal injury protection (PIP).
• Normal use such as driving to work or school typically means fewer miles driven and results in lower rates, whereas commercial use such as TNC driving could mean more miles driven and higher frequency of loss.

• TNC drivers may be distracted as they are checking one or more applications on their mobile device for matches or using the GPS tracking to determine delivery routes.

• Additional passengers in the vehicle who may be injured in an accident could result in higher severity of loss.

### Factors That Affect Auto Insurance Rates

<table>
<thead>
<tr>
<th>Territory</th>
<th>Multi-car policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Normal use of auto (to work or school)</td>
<td>Years of driving experience</td>
</tr>
<tr>
<td>Age</td>
<td>Credit-based insurance score</td>
</tr>
<tr>
<td>Gender</td>
<td>Type of auto</td>
</tr>
<tr>
<td>Marital status</td>
<td>Deductibles</td>
</tr>
<tr>
<td>Driving record</td>
<td>Liability limits</td>
</tr>
<tr>
<td>Driver education</td>
<td>Telematics scores</td>
</tr>
<tr>
<td>If student – grade point average</td>
<td>Mileage (annual and commuting)</td>
</tr>
</tbody>
</table>

A Pinnacle Actuarial Resources study on ride-hailing, commissioned by the Property and Casualty Insurers Association of America (PCI), found that “rideshare drivers who put in about 1,000 miles a year could expect to pay $100 to $200 a year to obtain coverage for Period 1. Full-time drivers in Colorado would pay $1,000 to about $1,500, and full-time drivers in San Francisco would pay an additional $3,000.”


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Insurers are also concerned that TNC drivers will not disclose the fact that they drive for a TNC. The variances in language used for livery exclusions and the determination of which exposure period the accident took place create additional costs for the insurer that are ultimately passed on to all policyholders.

TNC-related claims affect the duty to defend, as well as the duty to indemnify. Under all standard personal auto policies, insurers have a duty to indemnify the insured for covered damages and also have a broader duty to defend. Because the duty to defend is broader than the duty to indemnify, an insurer may have to pay defense costs even if it can ultimately prove that the accident occurred during an excluded time period, such as Period 3. Some insurers argue that if a driver participated in TNC activity, the duty to defend should be placed on the TNC’s insurance instead of the driver’s PAP.

Regulators and legislators should consider the duty to defend issue and provide clear mandates regarding whether the driver’s PAP insurer, the TNC insurer or both have a duty to defend. In California, Assembly Bill 2293, effective in relevant part on July 1, 2015, made it clear that a PAP shall not provide any coverage for TNC activities unless the policy expressly provides for that coverage during the relevant time period. But other provisions of AB2293 are less clear and could require PAP insurers and TNC insurers to share the duty to defend when the PAP expressly provides coverage for a particular period. Colorado’s Senate Bill 14-125 did not include a duty to defend provision, but did include a pro-rata sharing provision.

While the duty to indemnify is more straightforward, it is also affected by TNC activities. Claims involving TNC drivers require more analysis to determine which insurer, personal auto or commercial, must indemnify the TNC driver. Insurers must determine the time period during which the accident occurred and in some cases analyze the livery exclusions to determine which insurer has the duty to indemnify. Insurers will need TNCs to provide data in a timely fashion in the event of a claim. Both the California and Colorado laws have provisions requiring TNCs to cooperate in the claims handling process.

Currently, the largest TNCs have obtained coverage through surplus lines producers. Surplus lines insurers are non-admitted companies not regulated to the extent of most personal auto insurers. Surplus lines carriers are not subject to state regulatory approval of their rates and forms nor are they generally covered by state guarantee funds. Surplus lines insurers frequently take on new types of risks or high risk activities because coverage is not available in the admitted market. They are experienced with using flexible rating plans involving large amounts of judgment in setting their pricing and in adapting policy language to more specifically contain the coverage they are willing to provide. Because the insurer is writing coverage for the TNC but covering losses resulting from the TNC drivers using their personal autos, it is important that the insurer’s claim process be clearly described to those drivers and passengers, including the process to submit claims.

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Personal auto insurers should consider customer outreach to inform policyholders of their stance regarding ride-hailing and any available coverage options. Policyholder education campaigns should identify exposures created by ride-hailing not generally contemplated in standard personal auto policies. Companies should be able to answer policyholder questions regarding policy exclusions, exposure periods created by ride-hailing arrangements, coverage gaps and options for additional coverage. Companies should inform producers about their policies regarding ride-hailing and give them the tools they need to answer policyholder questions.

Education for policyholders and producers regarding ride-hailing could include:

- Definitions of terminology, such as ride-hailing, TNC and coverage periods.
- Court interpretations of common livery exclusions.
- Identification of any legal barriers to canceling policies due to the driver’s involvement in ride-hailing.
- Disclosure of state-mandated coverage for TNCs, including when the coverage begins and ends.
- Listing of the options for insurers to determine if consumers are participating in ride-hailing and whether the response qualifies as a warranty or a misrepresentation affecting possible rescission of the policy.
  - Potential options include listing a question on:
    - Initial application.
    - Survey or questionnaire.
    - Renewal form.

B. Driver Perspective

TNCs have provided drivers with a way to earn extra income in their spare time at the push of a button, but drivers seldom ask questions about potential liability or hidden risk exposures. TNCs attempt to limit their liability through disclaimers. One disclaimer on a TNC’s website states, “You agree that the entire risk arising out of your use of the services, and any third party good or services obtained in connection therewith, remains solely with you, to the maximum extent permitted by applicable law.” The disclaimer goes on to state, “This disclaimer does not alter

8 (DRAFTING NOTE: TNC drivers have filed lawsuits in California and other states alleging they are TNC employees instead of independent contractors. The outcome of those lawsuits will have no impact on the amounts or types of coverage that TNCs should be required to provide to protect passengers and the general public.)

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your rights as a consumer to the extent not permitted under the law in the jurisdiction of your place of residence.”9

The above disclosure reiterates the importance for regulators and legislators at the state and/or municipal level to put measures in place before accidents occur and consumers are left without coverage or recourse for losses.

Roughly 25 state insurance departments have issued bulletins cautioning consumers of the potential limitations of insurance coverage. Additionally, three states have passed legislation setting coverage requirements for TNCs to protect consumers. Several additional states are debating legislation setting clearer insurance coverage rules and standards. States may use NAIC software such as State Based Systems (SBS) to track consumer complaints and investigations concerning TNCs by keyword. The NAIC has published two consumer alerts to explain coverage issues and identify what consumers can do to protect themselves. The NAIC is also in the process of updating its NAIC Consumer Shopping Tool for Auto Insurance, as well as A Consumer’s Guide to Auto Insurance, to include information regarding the use of TNC services.

Driver awareness communications could include the following information:

- Standard personal auto policies often include exclusions for transporting passengers for a fee.
  - Drivers should read their PAP to determine if exclusions exist and if so, at what period the exclusion goes into effect.
  - Drivers should contact their insurer or agent to inform them of their decision to participate in ride-hailing arrangements as a driver and discuss the details of their policy to determine coverage options. Some insurers may cancel or non-renew insureds that drive for TNCs. If this happens, the driver will need to find an alternate insurer. It is illegal in all states to drive without proof of financial responsibility. In some states, this may result in fines, suspension of driving privileges or repossession of the vehicle.

- The availability of coverage through the TNC with which they intend to do business.
  - Drivers should read the TNC’s insurance policy to determine the period in which the TNC’s commercial auto policy begins and ends in the livery process.
  - Drivers should also determine the types and amounts of coverage is available through the TNC.
    - Drivers should ask about the liability limits, coverage for medical payments, personal injury protection in no-fault states, comprehensive (otherwise known as other than collision), collision coverage and UM/UIM coverage.

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Drivers should determine if defense costs are included in the TNC’s commercial auto policy or who would cover the cost of legal fees if they were to be sued.

• If coverage gaps exist between when the driver’s PAP ends and the TNC’s commercial auto policy begins, drivers should consider purchasing additional coverage. Additional coverage may be available as an endorsement to the driver’s PAP or as a separate commercial policy.

It is important to note that in some instances, a TNC driver may not be the named insured on the PAP. Standard personal auto policies are designed to provide coverage for the named insured and their family members. A family member is a person related to the named insured by blood, marriage or adoption and who resides in the named insured’s household. A child who lives away for college may also be covered under the standard policy. If the TNC driver is someone other than the named insured, the driver needs to make sure that he or she is covered under a policy that will provide coverage for any claims arising out of TNC activity.

C. TNC Perspective

Some TNCs argue against requiring the TNC to bear the primary insurance burden in Period 1. They argue that requiring the TNC to provide insurance for a driver during Period 1 creates a moral hazard because the driver who is on a personal drive may be tempted to turn on the TNC app for the sole purpose of obtaining insurance during Period 1. Some TNCs argue that drivers might drop PPA insurance altogether and turn the app on before any trip. Others argue that if the TNC’s insurance provides higher limits than the driver’s own policy, the driver will have an incentive to file a claim with the TNC’s insurance even if the driver was on a pleasure/commute trip at the time of a collision. Milliman (on behalf of UberX) studied the impact of ride-hailing drivers in Period 1 and determined that “the net result on the personal auto insurance market to all policies was $0.70/policy.”

Proponents of ride-hailing believe it will increase road safety due to fewer intoxicated drivers on the roadways and fewer personal vehicles due to the additional options for public transportation. TNCs also argue that many drivers are part-time. They argue that forcing these drivers to buy commercial livery insurance is too high a burden and that future development in on-board navigation and clear laws may turn many motorists into part-time TNC drivers.

TNCs further argue that many personal automobile insurers offer quasi-commercial coverage for purposes like real-estate agents and pizza delivery drivers and that providing coverage for TNC drivers is fairly straightforward.

10 (DRAFTING NOTE: Insurer representatives point out that TNC’s could quickly shut off drivers who were not accepting rides.)


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TNCs argue that they should not be required to have higher limits than traditional for-hire transportation such as taxis. Regulators and legislators considering this concept should examine whether the limits for traditional for-hire transportation provide sufficient protection for the public in 2015.

D. Other For-Hire Transportation Perspective

Two stakeholders in this process, the R Street Institute and Taxi, Limousine and Paratransit Association (TLPA), argue that the insurance limits should be the same for all for-hire transportation services. The TLPA argues that if TNCs are allowed to have lower insurance limits when the vehicle is being used personally, or before it is matched to a passenger, similar lower insurance limits should also apply to taxis and limousines during the same time periods.

The TLPA also challenges the notion that many or most TNC drivers are part-time. They argue that many TNC drivers are full-time commercial drivers and should be required to have full-time commercial coverage just as taxis are required to do. Regulators and legislators considering this concept might consider drawing a distinction between part-time and full-time TNC drivers for insurance requirement purposes.

E. Passenger/Third-Party Perspective

Passengers see TNCs as a tool for increased mobility, a cutting-edge service that provides a popular alternative to taxi services. Passengers and third parties not involved in TNC transactions can be completely unaware of the hidden dangers but are not immune to damages caused by the increasing use of TNC applications. Seamless liability coverage in appropriate amounts without gaps properly covers passengers, third party drivers and pedestrians injured in a TNC accident caused by a TNC driver. In order to protect passengers, pedestrians and third party drivers, legislators and local regulators should make sure that: 1) the periods of TNC service are clearly defined; 2) there are no coverage gaps; and 3) the types and limits of coverage are appropriate. Liability and UM/UIM coverage are essential to protecting passengers and third parties. Regulators and legislators may also consider requiring medical payments coverage.

Consumer groups and attorneys advocating on behalf of pedestrians injured by TNC drivers during Period 1, including advocates for the Liu family who lost their 5 year old daughter in a Period 1 collision, reason that TNCs and TNC drivers should be required to carry the same liability limits in Period 1 as they do in Period 2 and Period 3. Passengers, pedestrians and other third parties also advocate for UM/UIM to protect them in the event they are in an accident involving a TNC caused by a third party with little or no insurance.

IV. POTENTIAL SOLUTIONS TO COVERAGE ISSUES

A. Review Established Insurance Options

While ride-hailing activities create many coverage issues, there are also a variety of solutions possible. The ideal insurance solution is for ride-hailing drivers to have coverage on a full time
basis available for all ride-hailing activities. To achieve that, the least complex approaches are that either the driver would purchase commercial coverage or the TNC would provide full coverage for all three TNC activity periods.

Commercial auto coverage purchased by the TNC driver does not appear to be a realistic option at this time. Commercial auto insurance for livery exposures typically costs between $5,000 and $7,000 per year, which some argue is too expensive for TNC drivers. To date, there has been no evident movement toward creating a commercial policy tailored to the TNC paradigm of part-livery-risk, part-personal auto-risk. If such a product were to be made available, it would require that the TNC driver be committed enough to the livery trade to buy commercial coverage. Also, it would need to be available at a price that is within reason compared to personal auto coverage.

So far, in unregulated environments, TNCs have been successful in explicitly or implicitly transferring some or all of the responsibility for buying insurance onto the driver. Thus, the personal auto insurer is engaged in sorting out which claims are covered and in creating a coverage response of its own.

New laws in California and Colorado impose important coverage mandates but still allow for coverage gaps, at least for UM/UIM and physical damage coverages. Unless the personal auto insurer acts to amend its coverages, coverage gaps will remain despite the new statutory requirements.

Unless TNCs change their business model and agree to provide full commercial coverage for TNC drivers, a more complex hybrid of coverage between the TNC and the PAP will need to be created.

**B. Potential for New Products/Coverage Options**

Policy endorsements are being developed for PAPs to fill coverage gaps. These endorsements will be a valuable tool to close gaps for TNC drivers willing to purchase them. These hybrid insurance products, adding some level of coverage for TNC activities onto PAPs, are being developed as this paper is being written. They are being introduced by innovative insurers willing to take on the calculated risk and be the first to gain market share in an evolving and growing space.

Because the products are not being standardized but are being developed by different insurers, they will likely establish coverage via different methods for different time periods. The new products present many concerns for insurance regulators, including, but not limited to, the cost for the new hybrid coverage.
In California, Metromile, a managing general agent partnered with National General Insurance Company, began selling hybrid TNC/PAP insurance as of Feb. 18, 2015. That filing offers an endorsement to a PAP deleting the livery exclusion, but only during Period 1. With regard to cost, National General Assurance Company, a partner of Metromile, is implementing a vehicle use factor for TNC use. Farmers Insurance filed a TNC endorsement with California in mid-February, and review is pending. MetLife and GEICO products have also been mentioned in recent articles.

Outside of California, Erie Insurance Company offers an endorsement that makes the TNC driver’s PAP excess for TNC activity for any insured with a business classification on his or her personal auto. It covers all three time periods. As of Jan. 1, 2015, it is available only in Illinois and Indiana, but the company expects to eventually offer it in all 12 states in which it sells insurance.

According to the Insurance Journal, the United Services Automobile Association (USAA) plans to offer auto insurance coverage in Colorado that will protect TNC drivers from the moment their mobile apps are turned on until they are matched with a passenger. “The pilot program, which will begin in February, extends a member’s existing auto policy coverages and deductibles, and costs about $6 to $8 more per month, or roughly $40 to $50 more for a six-month insurance policy, according to the carrier.”

In developing these new hybrid insurance products, should share with insurers any statistical information they track regarding driver and passenger characteristics, delivery patterns, hours of operation and any other factors relevant for determining insurance rates. One way to accumulate information on TNC driver behavior may be the use of telematics installed in driver vehicles.

ISO plans to modify its Personal Auto Program in two ways: 1) by amending its public or livery exclusion to explicitly exclude personal auto coverage whenever an insured is logged into the TNC application as a driver; and 2) by offering TNC drivers new endorsements they can add to their PAP that expressly provide coverage, for an additional charge, for TNC activities while no passenger is in the car. Under ISO’s new program, TNC drivers may have the option to buy an endorsement that provides coverage during Period 1 or an endorsement that provides coverage

during both Periods 1 and 2. ISO currently does not plan to make available an endorsement to cover Period 3 – the time period while the passenger is in the car.

Consumer groups and the Rhode Island Department of Insurance both raised the issue that any absolute exclusion for Period 1 or Period 2 driving could harm drivers who forget to switch off the app. Regulators and Legislators may want to consider whether an absolute bar to coverage for any claims that occur while the app is open is appropriate, or whether a driver who is no longer engaged in TNC services (but leaves the app on) should be provided coverage under the PAP or the TNC’s insurance. Regulators and legislators as well as TNCs and members of the public should be aware that drivers could sign up for multiple TNCs and be available for hire on several TNC apps at one time. This could be an issue particularly during Period 1 in determining who has a duty to provide coverage if the personal auto insurer has a TNC exclusion during all three periods. Insurance regulators will need to ensure that they devote adequate resources to provide for a timely review process for forms and rates related to these new products.

C. Spreading the Insurance Burden between TNCs and TNC Drivers

Assuming hybrid policies become readily available; regulators and legislators that chose to do so may be able to require TNCs and TNC drivers to share the burden of providing insurance for TNC activities. This can be accomplished in a number of ways. Regulators and legislators can require:

- TNC drivers to maintain coverage in Period 1 and TNCs to maintain coverage in Period 2 and Period 3.
- TNC drivers to maintain primary coverage up to a certain limit (for example, $100,000) while requiring TNCs to maintain excess coverage that pays for accidents resulting in damages above the primary limit.
- TNC drivers to maintain primary coverage in Period 1 up to a certain limit (for example, $100,000) while requiring TNCs to maintain excess coverage in Period 1 and primary coverage in Period 2 and Period 3.
- Various combinations of the above.

D. Coverage Amounts and Types

Regulators and legislators must also decide what amounts and types of insurance to require.

1. Coverage Amounts

It is crucial to determine coverage amounts high enough to protect persons and property injured or damaged in a TNC accident. Regulators and legislators can look to other states for guidance on the amounts of coverage to require. A provision in the Colorado legislature, Senate Bill 14-125, enacted June 6, 2014, required the Colorado Commissioner of Insurance to conduct a study regarding the limits of coverage provided during Period 1. The study, published in January 2015, was inconclusive due to a lack of credible loss data. However, it was determined that the liability limits ($50,000 per person/$100,000 per accident/$30,000 property damage) required in
Colorado during Period 1 are sufficient until additional data is developed to warrant a change. California requires $1 million in TNC insurance while a passenger is in a TNC vehicle (2014 Cal. Legis. Serv. Ch. 389, A.B. 2293). Regulators and legislators may also look at the amounts required for other transportation providers such as taxis and limousines for guidance. If those amounts were set in the distant past, they may need to be adjusted for inflation.

Regulators and legislators may also consider establishing coverage amounts by the defined TNC time period. Some legislation requires lower coverage amounts during Period 1 because there is no passenger in the vehicle at that time. However, this practice results in less coverage for a third party hit during Period 1. The San Francisco car accident in which an Uber-contracted driver struck and killed 6-year-old Sophia Liu and injured her mother and brother occurred during Period 1. Consumer groups argue that injury or death should not be worth less merely because it occurred in one period instead of another.

2. Coverage Types

- **Liability**—Liability coverage must be required to protect passengers and third parties injured by TNC drivers.

- **UM/UIM**—In order to adequately protect consumers, regulators and legislators should consider requiring UM/UIM in the same amount as liability coverage. While TNCs argue that some taxicabs are not required to provide UM/UIM, the better practice is to require TNCs to maintain this coverage. Otherwise, a passenger injured in an accident caused by an uninsured or underinsured motorist may be left without recourse.

- **Comprehensive and collision**—This coverage is necessary to protect the TNC driver’s car. While liability insurance provides coverage for an injured passenger, it does not provide coverage for damage to the driver’s car. Because the livery exclusion applies to comprehensive and collision coverages, drivers currently have no way to obtain comprehensive and collision coverage for TNC activities unless they separately purchase a commercial policy, which is currently cost-prohibitive.

- **Medical payments**—This provides first-party coverage for drivers and passengers, and is used to pay for medical expenses related to an accident, without allocating fault.

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17 Colorado Department of Regulatory Services Division of Insurance. Commissioner Marguerite Salazar. (January, 2015).
V. Public Communication, Education and Outreach

Legislators and regulators should communicate with TNC drivers and passengers about the insurance issues.

Many regulators have found that media (TV, radio, newspaper and blogs) are very interested in the ride-hailing issue and a good avenue for presenting accurate, unbiased information to the public.

Because this is a new and rapidly changing industry, public education and outreach is critical to ensure that TNC drivers and passengers are aware of potential coverage gaps and limitations.

Public service announcements (PSAs) or consumer alerts can be a great tool in relaying information to both drivers and passengers. Unlike a news story, regulators and legislators can control the message, and provide detailed information.

TNC drivers and passengers, by definition, use smart phones. Information should be easily available, in a mobile-enabled format, on insurance department websites.

State insurance departments should post alerts on their websites informing consumers of potential coverage gaps and how to remedy them. This should include information about any newly available hybrid PAPs that expressly provide coverage for TNC drivers.

Regulators and legislators should require TNCs to:

- Prominently post their insurance policies on their websites along with disclaimers about any potential coverage gaps.
- Disclose to drivers whether damage to the drivers’ cars will be covered by the TNC’s policy in the event of an accident.
- Provide their drivers with insurance information, including the claims handling process.
- Revise their mobile apps to provide a link to insurance information, including claims handling information for all passengers.
- Electronically notify its mobile app users whenever it changes any coverage types or amounts on its insurance policy.
- Notify the driver’s personal auto carrier during the approval process to become a TNC driver.
VI. CONCLUSION

TNCs create a new option for peer-to-peer transportation. New technologies and business ventures often present risks not previously contemplated by state and local laws. Regulators and legislators can resolve risk exposure concerns by putting laws in place that require specific insurance coverage for TNCs and TNC drivers and eliminate coverage gaps. If not clearly defined, shifting coverage between personal auto and commercial coverage could be costly and inefficient, as well as leave gaps in coverage. TNC laws should clearly define the terminology and identify the insurance coverage and limits required during each period. The chart in Appendix A contains a list of local ordinances and state legislation currently in place regarding TNCs.

(DRAFTING NOTE: UberX and multiple insurers worked together to draft a TNC Insurance Compromise Model Bill released to the public March 26. The American Insurance Association (AIA), Farmers Insurance, Liberty Mutual, Lyft, the National Association of Mutual Insurance Companies (NAMIC), the Property and Casualty Insurance Association of America (PCIAA), State Farm, UberX and USAA publicized their support of the Model Bill. AIA, NAMIC, PCI, UberX and USAA submitted comments on the white paper in February and the paper was revised pursuant to comments received. The Model Bill outlines a plan to create coordination of coverage between personal coverage carried by TNC drivers and commercial coverage carried by TNCs. The Bill expressly permits personal auto policies to exclude coverage for TNC related driving and calls for mandatory primary coverage by the TNC, TNC driver or a combination of the two during Period 1 with liability limits of $50,000 per person, $100,000 per occurrence, and $25,000 or $30,000 for property damage depending on the state. The Bill also requires primary coverage during Period 2 and Period 3 with liability limits of at least $1 million. The Model Bill includes reference to existing statues mandating auto insurance coverage and intentionally excludes additional coverage options such as collision and comprehensive insurance. The Model Bill includes provisions regarding an insurer’s right to exclude coverage under an unendorsed PAP, disclosures required of TNC’s regarding insurance matters to their drivers and a requirement for TNC drivers to carry proof of TNC insurance coverage. The Bill also mandates cooperation between all parties involved in claim investigations. The primary difference between the Compromise Bill and suggested legislation included in the white paper is relative to consumer protections provided through additional coverage options such as: uninsured motorist, underinsured motorist, medical payment, comprehensive and collision coverage.)

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| Austin, TX      | 9-14        | Austin City Council  | • Transportation network companies (TNCs) will provide commercial automobile liability insurance with a minimum combined single limit of $1 million for each occurrence of bodily injury and property damage for accidents involving TNC vehicles in transit, beginning with the time that the TNC driver accepts a trip request on the TNC’s digital network, or during the accepted trip, and ending when the rider departs the vehicle, naming the city of Austin as an additional insured.  
• The policy shall be accompanied by a commitment from the insurer that such policy will not be cancelled or coverage reduced without at least 30 days’ notice. [www.austintexas.gov/edims/document.cfm?id=220985](http://www.austintexas.gov/edims/document.cfm?id=220985) |
| Baton Rouge, LA | 6-14        |                      | • Transportation network application companies shall mean companies operating in the city of Baton Rouge and parish of East Eaton Rouge that use a digital network or software application to connect a passenger to transportation network services provided by a transportation network operator.  
• Such companies must maintain a commercial liability insurance policy that:  
  o Provides coverage of at least $1 million per incident for accidents involving a transportation network operator from the time the operator accepts a trip request until the completion of a trip, regardless of whether the operator maintains personal insurance adequate to cover any portion of a claim.  
  o Provides uninsured/underinsured motorist (UM/UIM) bodily injury coverage of at least $1 million per incident.  
  o During the time that a transportation network operator is available for service but not providing service, provides additional bodily injury coverage of at least $50,000 per person and at least $100,000 per accident, and coverage of at least $25,000 for property damage per accident, in the event that the operator's personal insurance policy does not pay.  
  o Provides that written notice shall be given the taxicab control board upon any cancellation or termination of the policy. [https://www.municode.com/library#!/la/baton_rouge,_east_baton_rouge_parish/codes/](https://www.municode.com/library#!/la/baton_rouge,_east_baton_rouge_parish/codes/) |
| Birmingham, AL  | 7-14        |                      | • TNCs must maintain $1 million for personal injury, property damage or advertising liability during all coverage periods.  
*The ordinance not available online at this time.* |
| Chicago, IL     | 5-14        | Chicago City Council | • At least the following minimum coverage:  
  o (1) Commercial general liability insurance with limits of not less than |
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| Cincinnati, OH        | 11-14       | City of Cincinnati | • TNCs are required to carry at least $1 million in combined single limit liability third-party coverage per occurrence for death, bodily injury and property during Period 2 and Period 3.  
  • The policy shall provide UM/UIM coverage per occurrence for death or bodily injury in an amount at least equal to requirements for other public vehicles as required in Sec. 407-30 of the municipal code.  
  • The policy shall act as primary coverage for the driver, driver’s vehicle and the passengers of the driver’s vehicle during Period 2 and Period 3.  
  • A transportation network’s driver’s personal insurance may satisfy the requirements of this section as primary coverage where the policy grants such TNC coverage or where there is an insurance rider or endorsement of the driver’s personal automobile insurance policy that meets state and local minimums (state min. limits = $12,500/$25,000/$7,500) and that is specifically written to cover a transportation network vehicle. |

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| Columbus, OH  | 7-14        | Columbus City Council   | • TNCs are required to provide at least $1 million of commercial liability coverage, as well as uninsured and underinsured motorist coverage.  
• TNCs must also match the driver’s personal auto coverage for collision and comprehensive (other than collision).  
• No vehicle for hire owner's license shall be issued or renewed by the director without evidence of liability protection. It shall be unlawful to operate or permit the operation of any vehicle for hire until the owner of the vehicle has deposited and maintained on deposit with the director, evidence of liability protection. The liability protection limit shall not be less than the amount listed below for the specific vehicle for hire to be licensed for liability imposed by law for damages on account of bodily injuries, death or property damages (other than injuries, death or property damages of the owner or vehicle for hire driver) in any one accident resulting from the ownership, maintenance or use of each such vehicle for hire:  
  o $300,000 for taxicabs.  
  o $300,000 for pedicabs.  
  o $500,000 for livery vehicles.  
  o $300,000 for horse carriages. |
| Dallas, TX    | 12-14       | Dallas City Council     | • From the time a driver indicates that the vehicle is available to accept a ride request, but before the driver has accepted a ride request, the vehicle and driver must be covered by contingent primary liability coverage for injury and property damage arising out of or caused by the operation of the vehicle in the amount of $50,000 per person; $100,000 per occurrence for bodily injury; and $25,000 in property damage.  
• From the time a driver accepts a ride request, either by being physically hailed or dispatched, to the time the passenger exits the vehicle, the vehicle and driver must be covered by primary commercial automobile liability coverage with a combined single limit of liability for injury and property damage arising out of or caused by the operation of the vehicle in the following amounts:  
  o For vehicles with a manufacturer’s rated seating capacity of one to eight |

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<td>Dayton, OH</td>
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<td>• The ordinance does not address insurance requirements for TNCs. Taxicab operators must carry $1 million for bodily injury and property damage. <em>The ordinance is not available online at this time.</em></td>
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| Houston, TX  |             |                                          | • $1 million commercial automobile liability insurance is required with a combined single limit for bodily injury and property damage during Period 2 and Period 3.  
  • Commercial automobile liability insurance coverage no less than the minimum coverage amounts specified in the Texas Motor Vehicle Safety Responsibility Act ($30,000/$60,000/$25,000) during Period 1 is required.  
  • The insurance policy required must be available to cover claims regardless of whether a driver maintains insurance adequate to cover any portion of the claim, be disclosed on the permittee’s Internet-enabled application and website, and maintained in force all times that the TNC offers or provides TNC service. |
| Little Rock, AR | 11-14      |                                          | • A commercial auto liability policy must be maintained in force at all relevant times with the following limits: $250,000 bodily injury per person/$500,000 bodily injury per occurrence/$50,000 property damage. |
| Milwaukee, WI | 7-14        | Milwaukee Common Council                | • Minimum required policy limits are $50,000/$100,000/$10,000 during all periods.  
  • Uninsured motorist coverage with limits comparable to the respective liability limits for the vehicle are also required during all periods. |
| Minneapolis, MN | 7-14      | Minneapolis City Council                | • TNCs are required to maintain at least $1 million of commercial liability coverage per occurrence, covering vehicles while they are "active."  
  • TNCs or drivers maintain minimum liability limits of $50,000/$100,000/$30,000 while drivers are logged into a TNC’s digital network but not engaged in a prearranged ride. |
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| **Oklahoma City, OK** | 10-14       | Oklahoma City Council | • Single limit coverage required for each accident or occurrence during Period 2 and Period 3:<br>  
  - $100,000 involving six or fewer seating capacity.<br>  
  - $750,000 involving seven to nine seating capacity.<br>  
  - $1,000,000 for seating capacity for 10.<br>  
  • During Period 2 and Period 3, the TNC is required to provide coverage with minimum limits of ($50,000/$100,000/$25,000).<br>  
  [https://www.municode.com/library/#!/ok/oklahoma_city/codes/](https://www.municode.com/library/#!/ok/oklahoma_city/codes/) | Amended by Ordinance 25,002. |
| **San Antonio, TX**  | 12-14       | San Antonio City Council | • TNCs are required to carry minimum liability limits during Period 1 of $50,000/$100,000/$25,000 and excess coverage of $200,000. Liability coverage must be primary.<br>  
  - $1 million is required for liability and UM/UIM coverage in Period 2 and Period 3.<br>  
| **Salt Lake City, UT** | 7-14        | Salt Lake City Council | • TNCs are required to carry the same liability insurance limits as other ground transportation companies (taxis and limousines). There is some debate remaining about when this coverage should begin and end.<br>  
  • Insurance coverage levels are set by determining the highest limits set by the Federal Motor Carrier Safety Administration, Utah Department of Transportation or U.S. Department of Transportation.<br>  
  • The required limits at the time ordinance was passed was $1.5 million per occurrence.<br>  
| **Seattle, WA**    | 7-14        | Seattle City Council  | • TNCs are required to maintain no less than $100,000 per person and $300,000 per accident of liability coverage, as well as uninsured motorist coverage with the same minimums. Coverages are required when the for-hire vehicle is “operating,” which includes when there is a passenger in the vehicle, the office dispatch records show that the vehicle had been dispatched or the for-hire driver has offered transportation services to a passenger.<br>  
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| Tulsa, OK      | 8-14        | Tulsa City Council            | - The driver of the Transportation Network Vehicle (TNV) must maintain minimum liability limits of $25,000/$50,000/$25,000.  
- TNCs must have a $1 million per incident excess policy, as well as step in to pay losses not covered by the driver’s personal auto coverage.  

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| California      | 9-14         | California Public Utilities Commission | - All TNC coverage amounts must be primary, and the TNC insurer maintains the duty to defend and indemnify in Period 2 and Period 3.  
- TNC insurance shall maintain coverage in the amount of $1 million for death, personal injury and property damage.  
- TNCs must also maintain $1 million UM/UIM coverage from the moment the passenger enters the vehicle until they exit.  
- TNCs shall maintain primary liability coverage of at least $50,000 per person/$100,000 per incident/$30,000 property damage.  
- TNCs shall maintain excess coverage for TNCs and drivers of at least $200,000 during Period 2 and Period 3.  
- Coverage may be maintained by drivers or TNCs or any combination of the two.  
- Drivers’ personal auto insurer is not required to defend or indemnify the insured while the driver is logged on to the TNC’s online-enabled application unless coverage is provided through an amendment or endorsement to their policy providing for such coverage.  
| Colorado        | 6-14         | Colorado Public Utilities Commission | - TNCs or drivers must maintain primary liability insurance coverage for drivers for incidents involving drivers during a prearranged ride in the amount of at least $1 million per occurrence.  
- While drivers are logged into a TNC’s digital network but are not engaged in a prearranged ride (Period 1):  
  o TNCs or drivers shall maintain primary liability limit equal to at least the state minimum ($50,000 per person/$100,000 per accident/$30,000 property damage)  
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| District of Columbia | 12-14 | Council of the District of Columbia | • TNCs must maintain a commercial liability policy with at least $1 million per incident coverage from the time operators (drivers) accept a trip request until completion of the trip.  
  • TNCs must provide at least $1 million per incident of UM/UIM coverage.  
  • TNCs must provide contingent comprehensive and collision coverage of at least $50,000.  
  • Drivers or TNCs must provide primary liability coverage of at least $50,000 per person/$100,000 per accident/$25,000 property damage while operators (drivers) are available for service but not providing service in the event that operators’ personal auto insurance policy does not pay. |
| Illinois | 1-15 | Illinois General Assembly | • From the moment TNC drivers log onto the app until they either accept a ride request or they log off the app/digital network:  
  o Auto liability insurance must be maintained for at least $50,000/$100,000/$25,000.  
  o TNCs must maintain contingent liability insurance in the event a participating TNC driver’s own auto liability policy excludes coverage according to its policy terms or does not provide at least the limits stated above.  
  • From the moment drivers accept a ride request until they complete the transaction or ride is complete:  
  o The TNCs, drivers or any combination of the two must maintain $1 million primary auto liability insurance for death, personal injury and property damage.  
  o The insurer has the duty to indemnify and defend the insured.  
  o Coverage is not contingent upon denial of claim by personal auto insurer. TNCs must provide coverage beginning with first dollar of a claim if TNC drivers do not maintain coverage or there is a lapse in coverage.  
  • From the moment a passenger enters the vehicle until the passenger exits the vehicle:  
  o $50,000 of UM/UIM coverage is required |
<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Enacted Date</th>
<th>Office</th>
<th>Insurance Requirements</th>
</tr>
</thead>
</table>
| Virginia       | 2-15         | Virginia General Assembly | - TNCs must disclose to TNC drivers in writing the insurance coverage and liability limits provided by the TNC and that the drivers’ personal auto policy may exclude coverage while the driver is logged on to the application.  
- The insurance policy may be placed with an admitted Illinois insurer or authorized surplus lines insurer.  
|                |              |        | During Period 2 and 3:  
- TNC required to maintain primary coverage with $1 million limit.  
- TNC must provide uninsured and underinsured coverage with $1 million limit.  
- Requirements may be satisfied by TNC maintained insurance, TNC partner insurance or any combination of the two. If the policy is maintained by TNC partner, it must be verified by the TNC.  
- TNC Insurers have exclusive duty to defend and indemnify unless TNC partners insurance expressly provides otherwise.  
- Coverage under TNC insurance policy shall not be dependent on a personal auto insurer first denying a claim. Nor is the personal auto insurer required to deny claim for TNC insurance to provide coverage.  
- Personal auto insurers are not required to provide primary or excess coverage unless the policy expressly provides for that coverage including by amendment or endorsement.  
- If the app fails en route to pick-up or drop-off of a passenger TNC insurance coverage is presumed to remain in force.  
During Period 1:  
- Until 1-1-2016: TNC insurance shall provide secondary liability coverage of at least $125,000 per person, $250,000 per incident, and $50,000 property damage.  
- After 1-1-2016: TNC insurance shall provide secondary liability coverage of at least $50,000 per person, $100,000 per incident, and $25,000 property damage.  
- Requirements may be satisfied by TNC maintained insurance, TNC partner insurance or any combination of the two. If the policy is maintained by TNC partner, it must be verified by the TNC.  
- Requirements may be satisfied by TNC partner insurance, contingent TNC insurance or any combination of the two. If the policy is maintained by TNC partner, it must be
## APPENDIX A – OVERVIEW OF CURRENT LEGISLATION

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Enacted Date</th>
<th>Office</th>
<th>Insurance Requirements</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td>verified by the TNC.</td>
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<td>• Until 1-1-2016: If the TNC partner vehicle is insured under a personal auto insurance policy that does not exclude coverage then such policy shall provide primary coverage and an insurance policy maintained by the TNC shall provide excess coverage for up to at least $1 million.</td>
</tr>
<tr>
<td></td>
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<td>• If TNC partner insurance ceases for any reason, TNC must provide primary coverage.</td>
</tr>
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<td>For all Periods:</td>
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<td></td>
<td>• TNC must agree to disclose within 30 days of request receipt to any party involved in a TNC related incident, TNC partner’s use of app in claims investigation.</td>
</tr>
<tr>
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<td></td>
<td></td>
<td>• Insurance coverage maintained by TNC may be placed with admitted insurer or surplus lines company specified in state statutes.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>• TNC must file proof of insurance with State Department of Insurance.</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>• TNC must comply with alternative insurers in claims investigations regarding TNC partners.</td>
</tr>
</tbody>
</table>

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Consider Adoption of Title Insurance Guaranty Fund Guideline
Section 1. Title

This Act may be cited as the "[State] Title Insurance Guaranty Association-Title Insurance Consumer Protection Fund."

Section 2. Purpose

The purpose of this Act is to provide a mechanism for continuation of coverage, payment of covered claims under certain insurance policies, to avoid excessive delay in payment and avoid financial loss to policyholders because of insolvency of a title insurer and provide an association to assess the cost of such protection.

Section 3. Scope

This Act applies to all title insurers authorized to transact insurance in this state.

Section 4. Definitions

A. "Association" means the title insurance guaranty association.

B. "Authorized to transact insurance" means a title insurer as defined in [insert appropriate citation to the insurance code].
C. “Commissioner" means the chief regulatory insurance official of this state, whether referred to as Director, Superintendent, Commissioner, or other similar title.

D. "Covered claim" means an unpaid claim of an insured covered under and not in excess of the applicable limits of a title insurance policy insuring land located in this state issued by an insolvent insurer. Subject to applicable policy limits, the association's liability for covered claims shall not exceed $300,000 per claim. The total amount that may be recovered from the association by a claimant for all covered claims shall not exceed $600,000. "Covered claim" does not include supplementary payment obligations, including but not limited to adjustment fees and expenses, escrow or other closing protection claims nor does it include punitive, exemplary, extra-contractual or bad-faith damages awarded by a court judgment against an insurer. “Covered claim” does not include any first or third party claim by or against an insured whose net worth on December 31 of the year preceding the date the insurer becomes insolvent exceeds $25,000,000; provided the insured’s net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis, and the insured has not applied for or consented to appointment of a receiver, trustee or liquidator for all or substantially all of its assets, filed a voluntary bankruptcy petition or a proceeding under state law to reorganize or receive protection under any insolvency law. The amount of a covered claim shall be reduced by the amount or other benefit that an insured recovers from any person, including an agent, regardless of whether an assignment is taken.

Drafting Note: States which desire to include additional claims in the fund may omit one or more of the exclusions from this definition.

F. "Insolvent insurer" means:

1. An insurer authorized to transact business in this state at the time the policy was issued or an insurer that subsequently assumes such policy under an assumption agreement;

2. Against which an Order of liquidation with a finding of insolvency has been entered after the effective date of this Act by a court or administrative agency of competent jurisdiction in the insurer's state of domicile, or of this state under [insert state liquidation law citation]; and

3. Which Order of liquidation has not been stayed or been the subject of a writ of supersedes or other comparable Order.

G. “Insured” means a person entitled to payment for insured loss under a policy issued by the insolvent title insurance company on title to real property located in this state.

H. "Member insurer" means any person who is authorized to transact title insurance in this state.
Drafting Note: Some states may authorize property and casualty insurers to transact title insurance. Other states may limit the transaction of title insurance to monoline title insurers.

I. “Net direct title premium” means direct gross premiums written in this State on insurance policies to which this Act applies.

J. "Person" means any individual, corporation, partnership, association, trust or voluntary organization.

K. “Policy” means a title insurance policy, or assumption certificate whose subject of coverage or protection is title to real property located in this state; and “Title Policy” means any written instrument or contract by means of which title insurance liability is assumed by a title insurer.

L. “Receiver” means receiver, liquidator, rehabilitator, or conservator as the context may require.

M. “Servicing facility” means a person or persons delegated by the board of directors to settle or compromise claims and to expend association assets to pay claims.

Section 5. Organization of Association

There is hereby created a nonprofit legal entity to be known as the [State] Title Insurance Guaranty Association. All member insurers shall maintain membership in the association as a condition of their authority to transact title insurance in this state. The association may take any appropriate form of legal entity available under the laws of this state, including, but not limited to, a corporation or receivership association as approved by the commissioner.

Section 6. Board of Directors

A. The board of directors of the association shall consist of not less than five (5), nor more than eleven (11) persons serving terms as established in the plan of operation. In addition to the voting members of the board, the commissioner or his designated representative shall be an ex-officio non-voting member of the board. The members of the board shall be selected by member insurers subject to the approval of the commissioner and shall have as a majority of its members, persons who are employed by member insurers. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner.

B. In approving selections to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

C. Members of the board of directors shall not receive compensation for serving as members of the board or any committees thereof, but may be reimbursed from the administrative account for actual expenses incurred by them as members of the board of directors.
Section 7. Powers and Duties of the Association

A. The association shall:

(1) Be obligated to the extent of the amount of covered claims not resolved, whether reported or not, prior to the determination of insolvency, except that the association shall not be obligated as to policies which have been replaced by another title insurance policy issued by a solvent authorized title insurer. In no event shall the association be obligated for an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises;

Drafting note: The phrase “not resolved” includes claims that are unpaid or otherwise unresolved by the member insurer as of the insolvency determination date, including claims that may not have been asserted but exist due to a defect in title or other event covered under the terms of the title policy issued by the insolvent member insurer. If another title insurance company assumes or otherwise issues a replacement policy there should be no covered claims under the original, now insolvent, title insurance company policy. States may want to cut off claims by requiring the association, or the Commissioner as liquidator, to cancel title insurance policies after five years. Alternatively, as reflected in this guideline, states may not want to have a guaranty fund claim cut off.

(2) Have no liability for the alleged bad faith of the insolvent insurer in the handling of any claim prior to the determination of insolvency or for any exemplary or punitive damages;

(3) Investigate claims made against the policies of an insolvent insurer and adjust, negotiate, resolve, settle and pay covered claims to the extent of the association's obligation and deny all other claims. Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the board of Directors, but the designation of such insurer may be declined by the member insurer; and

(4) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the covered claims and expenses, including loss adjustment expenses, and receivership expenses for the coming year if, at the end of any calendar year, the board of directors finds that the assets of the association in the fund exceed the liabilities of that account.

B. The association may, subject to approval by the board of directors:

(1) Employ or retain persons or companies as servicing facilities necessary to handle claims and perform other duties of the association;

(2) Review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to in order to determine the extent to which such settlements, releases and judgments may be properly contested;
(3) Borrow funds necessary to affect the purposes of this article in accordance with the plan of operation;

(4) Sue or be sued and intervene in any court or arbitration forum having jurisdiction over an insolvent member insurer;

(5) Negotiate and become a party to contracts necessary to carry out the purpose of this Act, including, assumption or reinsurance agreements relating to the title policies of an insolvent insurer;

(6) The association may take actions as provided in subsections A and B of this section prior to an insurer being declared insolvent by a court, where an insurer is potentially unable to fulfill its contractual obligations or is determined to be impaired; and

(7) Perform other acts necessary or proper to effectuate the purpose of this Act.

C. If the association fails to act within a reasonable time, the commissioner shall assume the powers and duties of the board of the association and cause it to act as appropriate.

Section 8. Plan of Operation

A. The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon the approval in writing by the commissioner. If, at any time, the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt rules necessary or advisable to effectuate the provisions of this Act. The rules shall continue in force until modified by the commissioner or superseded by a plan or amendments submitted by the association and approved by the commissioner.

B. All member insurers shall comply with the plan of operation, subject to the provisions of this Act.

C. The plan of operation, among other things, shall establish procedures for conducting the business of the association, for handling its assets, for keeping records and for the conduct of other activities necessary for execution of the powers and duties of the association.

D. The plan of operation may provide that any and all powers and duties of the association, except those under Section 6 and 7 of this Act that are to be performed by the Board, be delegated to a corporation, association or other organization which performs or will perform functions similar to those of the association, or its equivalent, in two (2) or more states. Such a corporation, association or organization shall be reimbursed as a servicing facility would be
reimbursed and shall be paid by the association for its costs incurred in performance of such functions.

Section 9. Duties and Powers of Commissioner

A. The commissioner shall:

(1) Serve on the association a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member insurer domiciled in this state at the same time that such complaint is filed with a court of competent jurisdiction; and

(2) Notify the association of the existence of an insolvent insurer not later than three (3) days after receipt of notice of the determination of the insolvency; and upon request of the board of directors, provide the association with a statement of the reported direct premiums written for the [insert time period] of each member insurer.

B. The commissioner may:

(1) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a civil penalty on any member insurer which fails to pay an assessment when due. The civil penalty shall not exceed five percent of the unpaid assessment per month, except that no civil penalty shall be less than one hundred dollars ($100) a month; and

(2) Revoke the designation of any servicing facility if the commissioner finds claims are being handled unsatisfactorily.

Section 10. Coordination Among Guaranty Associations

A. The association may join one or more organizations of other state title guaranty associations of similar purposes, to further the purposes and administer the powers and duties of the association. The association may designate one or more of these organizations to act as a liaison for the association and to the extent which the association authorizes, to bind the association in agreements or settlements with the receiver of the insolvent insurer or his or her designated representative.

B. The association, in cooperation with other obligated or potentially obligated guaranty associations, or their designated representatives, shall make all reasonable efforts to coordinate and cooperate with the receiver, or his or her designated representative, in the most efficient and uniform manner.

Section 11. Effect of Paid Claims

A. Any person recovering under this Act shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the
association. Every insured seeking the protection of this Act shall cooperate with the association to the same extent as he would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against an insured for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association do not operate to reduce the liability of the insured to the receiver, liquidator, or statutory successor for unpaid assessments.

B. The court having jurisdiction shall grant such claims assigned pursuant to Subsection A of this section and the expenses of the association or similar organization in another state the same priority as the claims and expenses of policyholders. The association may make application to the receivership court for reimbursement of such reasonable claims and expenses and upon proper showing to the court for reimbursement of such amounts the court shall order appropriate reimbursement of reasonable claims and expenses to be made.

C. The receiver for the insolvent insurer shall, each time a request for funds is submitted to the association but not less than once every six months within the time set by the receivership court, file with the commissioner or liquidator court of the insolvent insurer, a statement of the covered claims paid, reserves for unpaid claims, claims expense incurred, and the balance of funds then in the possession of the receiver.

Section 12. Non-Duplication of Recovery

Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to first exhaust his or her rights under such policy. Any amount payable on a covered claim under this Act shall be reduced by the amount of any recovery or value thereof received under such insurance policy.

Section 13. Examination of Association; Financial Reports

The association is subject to examination and shall complete audited financial statements. The board of directors shall submit to the commissioner and its member insurers, not later than June 30 each year, a financial report for the preceding year in a form approved by the commissioner.

Section 14. Assessment Authority of Commissioner and Association

A. Making of Assessment

(1) If the commissioner determines that a title insurance company has become insolvent, the association shall promptly estimate the amount of additional money needed to supplement the assets of the impaired title insurance company to pay all covered claims and administrative expenses.
(2) The association shall assess title insurance companies in writing an amount as
determined under Part B of this subsection. A member insurer does not incur real
or contingent liability under this Act until the association provides the member
insurer with a written assessment.

B. Amount of Assessment: Proration of Payment

(1) The association shall assess member insurers the amount necessary to pay: (1)
the association's obligations under this Act and the expenses of handling covered
claims subsequent to an insolvency; and (2) other expenses authorized by this
Act.

(2) The assessment of each member insurer must be in the proportion that the net
direct written title premiums of that company for the calendar year preceding the
assessment bear to the net direct written title premiums of all member insurers for
that year.

(3) The total assessment of a member insurer in a year may not exceed an amount
equal to two percent of the member's net direct title premium earned for the
calendar year preceding the assessment. If the maximum assessment and the
association's other assets are insufficient in any one year to make all necessary
payments, the money available shall be prorated and the unpaid portion shall be
paid in subsequent years.

C. Notice and Payment

(1) Not later than the 45th day before the date an assessment is due, the
association shall notify member insurers.

(2) Not later than the 45th day after the date an assessment is made, the member
insurer shall pay the association the amount of the assessment.

D. Exemption for Impaired Title Insurance Company

A member insurer is exempt from assessment during the period beginning on the
date the commissioner designates the company as an impaired member insurer
and ending on the date the commissioner determines that the company is no
longer an impaired member insurer.

Drafting Note: Some states may substitute hazardous financial condition or inability to meet
obligations for impaired.

E. Deferment

(1) At the discretion of the commissioner, the association may defer in whole or
in part an assessment of a member insurer that would cause the member's
financial statement to show amounts of capital or surplus less than the minimum
amount required for a certificate of authority in any jurisdiction in which the
company is authorized to engage in the business of insurance.
(2) The member insurer shall pay the deferred assessment when payment will not reduce capital or surplus below required minimums. The payment shall be refunded to or credited against future assessments of any member insurer receiving a larger assessment because of the deferment, as elected by that member.

(3) During a period of deferment, the member insurer may not pay a dividend to shareholders or policyholders.

F. Accounting; Reports

(1) The association shall adopt accounting procedures to show how money received from assessments or partial assessments is used.

(2) The association shall make interim accounting reports as the commissioner requires.

(3) The association shall make a final report to the commissioner showing how money received from assessments or partial assessments has been used, including a statement of any final balance of that money.

G. Use of Assessments

The association may use money from assessments to negotiate and consummate contracts of reinsurance, assumption of liabilities or replacement policies from authorized title insurers to provide for outstanding liabilities of covered claims. Assessments shall be used to pay the association’s general expenses and statutory obligations.

H. Failure to Pay

(1) The association shall promptly report to the commissioner a failure of a member insurer to pay an assessment when due.

(2) On failure of a member insurer to pay an assessment when due, the commissioner may take any action as provided in section 9 B of this Act.

(3) A member insurer whose certificate of authority is canceled or surrendered is liable for any unpaid assessments made before the date of the cancellation or surrender.

I. Recovery of Assessment in Rates; Tax Credit

(1) The surcharge on title insurance policies shall be based on historical need and include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurers, less any amounts returned to the member insurers by the association, and such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurers.
(2) Unless the commissioner determines that all amounts paid as assessments by each member insurer have been recovered under Subsection (a), for any amount not recovered the member insurer is entitled to a credit against its premium tax [include reference to state law providing for premium taxes]. The credit may be taken at a rate of 20 percent each year for five successive years following the date of assessment and, if the member insurer elects, may be taken over an additional number of years.

Drafting note: State law may not permit this tax offset, as premium taxes are for general fund purposes and assessments as provided in this Act are for a specific purpose.

(3) An amount of a tax credit allowed by this section that is unclaimed may be shown in the member insurer’s books and records as an admitted asset for all purposes, including an annual statement under [include reference to state law].

Drafting note: State law may not permit this tax offset, therefore subsections (2) and (3) may be omitted.

Section 15. Immunity and Confidentiality

A. There shall be no liability on the part of, and cause of action of any nature shall arise against, any member insurer, the association or its officers, agents or employees, the board of directors, any individual director or the commissioner or his representative for any action taken by them in the performance of their powers and duties under this Act or for failure to prevent any insolvency.

B. The meetings, activities, recommendations and decisions of the board of directors of the association as required or permitted in this article shall not be open to public inspection, nor considered public documents pursuant to [insert relevant state law]. No representative of a member insurer shall be excluded from any meeting of the board of directors, with the exception of a representative of an insolvent insurer.

Section 16. Stay of Proceedings

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this state shall, subject to waiver of the association for specific cases involving covered claims, be stayed for six (6) months and such additional time as may be determined by the court from the date the insolvency is determined or an ancillary proceeding is instituted in the state, whichever is later, to permit proper defense by the association of all pending causes of action.

The liquidator, receiver or statutory successor of an insolvent insurer covered by this Act shall permit access by the board or its authorized representative to such of the insolvent insurer’s records which are necessary for the board in carrying out its functions under this act with regard to covered claims. In addition, the liquidator, receiver or statutory successor shall provide the board or its representative with copies of those records upon the request by the board and at the expense of the board.
Section 17. Termination; Distribution of Funds

A. The commissioner shall by Order terminate the operation of the association if he or she finds, after hearing, that there is in effect a statutory or voluntary plan that:

(1) Is a permanent plan which is adequately funded or for which an adequate means of funding is provided; and

(2) Extends, or will extend to the policyholders of this state protection and benefits with respect to insolvent member insurers not substantially less favorable and effective to the policyholders than the protection provided under this Act.

B. If operation of the association is terminated or if the association has no further known obligations, the association, as soon as possible thereafter, shall distribute the balance of money and assets remaining, after discharge of the functions of the association, with respect to prior insurer insolvencies not covered by another plan, together with expenses, to the member insurers or former member insurers, pro rata upon the basis of the aggregate of such payments made by the respective insurers during the period of five (5) years next preceding the date of the Order.
Discuss Coverage Issues Related to Drones
INTEGRATION OF DRONES INTO CIVIL AIRSPACE
INSURANCE IMPLICATIONS

WHAT IS A DRONE
UAS-UAV-DRONE
TYPICAL DRONE

- COPTER
An unmanned aerial vehicle (UAV), commonly known as a drone and also referred to as an unpiloted aerial vehicle and a remotely piloted aircraft (RPA) by the International Civil Aviation Organization (ICAO), is an aircraft without a human pilot aboard. ICAO classify unmanned aircraft into two types under Circular 328 AN/190:

- **Autonomous** aircraft – currently considered unsuitable for regulation due to legal and liability issues.

The term unmanned aircraft system (UAS) emphasizes the importance of other elements beyond an aircraft itself. A typical UAS consists of the following:

- unmanned aircraft (UA);
- control system, such as ground control station (GCS);
- control link, a specialized datalink; and
- other related support equipment.
U A S

- A UAS is the unmanned aircraft (UA) and all of the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the unmanned aircraft.

- The UA is the flying portion of the system, flown by a pilot via a ground control system, or autonomously through use of an on-board computer, communication links and any additional equipment that is necessary for the UA to operate safely. The FAA issues an experimental airworthiness certificate for the entire system, not just the flying portion of the system.

G R O U N D C O N T R O L
THE PROBLEM

- AIRCRAFT IN SKY
THE PROBLEM
UNAUTHORIZED FLIGHTS

- NEAR MISS
- NEAR MISS
- CRASHES

Airspace Classification

<table>
<thead>
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<th>Airspace</th>
<th>Class A</th>
<th>Class B</th>
<th>Class C</th>
<th>Class D</th>
<th>Class E</th>
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<tr>
<td>Entry Requirements</td>
<td>IFR experience, student certificate, student airman, AU certificate, student pilot</td>
<td>IFR experience, student certificate, student airman, AU certificate, student pilot</td>
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<td>Two-Way Radio Communications</td>
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<td>Yes</td>
<td>Yes</td>
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<td>Yes</td>
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</tbody>
</table>

*Obly if a temporary tower or control tower is present in the area.
**CFLCA/CFLCA/FL300 above.
***CFLCA/CFLCA/FL300 below.
****CFLCA/CFLCA/FL300 below.

Figure 8-6: U.S. airspace classification.
FAA POSITIONS

Myth #1: The FAA doesn't control airspace below 400 feet

Fact—The FAA is responsible for the safety of U.S. airspace from the ground up. This misperception may originate with the idea that manned aircraft generally must stay at least 500 feet above the ground.

Myth #2: Commercial UAS flights are OK if I'm over private property and stay below 400 feet.

Fact—The FAA published a Federal Register notice in 2007 that clarified the agency’s policy: You may not fly a UAS for commercial purposes by claiming that you’re operating according to the Model Aircraft guidelines (below 400 feet, 3 miles from an airport, away from populated areas.) Commercial operations are only authorized on a case-by-case basis. A commercial flight requires a certified aircraft, a licensed pilot and operating approval.

FAA POSITIONS

- Anyone who wants to fly an aircraft—manned or unmanned—in U.S. airspace needs some level of FAA approval. Private sector (civil) users can obtain an experimental airworthiness certificate to conduct research and development, training and flight demonstrations. Commercial UAS operations are limited and require the operator to have certified aircraft and pilots, as well as operating approval.
FAA POSITIONS

- **Commercial Operator.** A person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier or foreign air carrier or under the authority of Part 375 of this title. Where it is doubtful that an operation is for “compensation or hire”, the test applied is whether the carriage by air is merely incidental to the person's other business or is, in itself, a major enterprise for profit.

RECKLESS OPERATION

§91.13 Careless or reckless operation.

(a) Aircraft operations for the purpose of air navigation. No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

(b) Aircraft operations other than for the purpose of air navigation. No person may operate an aircraft, other than for the purpose of air navigation, on any part of the surface of an airport used by aircraft for air commerce (including areas used by those aircraft for receiving or discharging persons or cargo), in a careless or reckless manner so as to endanger the life or property of another.
§91.119 Minimum safe altitudes: General.

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

(a) Anywhere. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

(b) Over congested areas. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.

(c) Over other than congested areas. An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

Helicopters may fly below the minimum safe altitudes for fixed-wing if operated without hazard to person or property. No regulations for Drones yet.

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**NEW PROPOSED LAW**

<table>
<thead>
<tr>
<th>Operational Limitations</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Unmanned aircraft must weigh less than 55 lbs (25 kg).</td>
</tr>
<tr>
<td>• Visual line-of-sight (VLOS) only; the unmanned aircraft must remain within VLOS of the operator or visual observer.</td>
</tr>
<tr>
<td>• At all times the small unmanned aircraft must remain close enough to the operator for the operator to be capable of seeing the aircraft with vision unaided by any device other than corrective lenses.</td>
</tr>
<tr>
<td>• Small unmanned aircraft may not operate over any persons not directly involved in the operation.</td>
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<tr>
<td>• Daylight-only operations (official sunrise to official sunset, local time).</td>
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<tr>
<td>• Must yield right-of-way to other aircraft, manned or unmanned.</td>
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<tr>
<td>• May use visual observer (VO) but not required.</td>
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<tr>
<td>• First-person view camera cannot satisfy “see-and-avoid” requirement but can be used as long as requirement is satisfied in other ways.</td>
</tr>
<tr>
<td>• Maximum airspeed of 100 mph (87 knots).</td>
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<tr>
<td>• Maximum altitude of 500 feet above ground level.</td>
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<tr>
<td>• Minimum weather visibility of 3 miles from control station.</td>
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<tr>
<td>• No operations are allowed in Class A (18,000 feet &amp; above) airspace.</td>
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<tr>
<td>• Operations in Class B, C, D and E airspace are allowed with the required ATC permission.</td>
</tr>
<tr>
<td>• Operations in Class G airspace are allowed without ATC permission.</td>
</tr>
<tr>
<td>• No person may act as an operator or VO for more than one unmanned aircraft operation at one time.</td>
</tr>
<tr>
<td>• No careless or reckless operations.</td>
</tr>
<tr>
<td>• Requires preflight inspection by the operator.</td>
</tr>
<tr>
<td>• A person may not operate a small unmanned aircraft if he or she knows or has reason to know of any physical or mental condition that would interfere with the safe operation of a small UAS.</td>
</tr>
<tr>
<td>• Proposed a micro-UAS option that would allow operations in Class G airspace, over people not involved in the operation, provided the operator certifies he or she has the requisite aeronautical knowledge to perform the operation.</td>
</tr>
</tbody>
</table>
### Operator Certification and Responsibilities

- Pilots of a small UAS would be considered “operators”.
- Operators would be required to:
  - Pass an initial aeronautical knowledge test at an FAA-approved knowledge testing center.
  - Be vetted by the Transportation Security Administration.
  - Obtain an unmanned aircraft operator certificate with a small UAS rating (like existing pilot airman certificates, never expires).
  - Pass a recurrent aeronautical knowledge test every 24 months.
  - Be at least 17 years old.
  - Make available to the FAA, upon request, the small UAS for inspection or testing, and any associated documents/records required to be kept under the proposed rule.
  - Report an accident to the FAA within 10 days of any operation that results in injury or property damage.
  - Conduct a preflight inspection, to include specific aircraft and control station systems checks, to ensure the small UAS is safe for operation.

### Aircraft Requirements

- FAA airworthiness certification not required. However, operator must maintain a small UAS in condition for safe operation and prior to flight must inspect the UAS to ensure that it is in a condition for safe operation. Aircraft Registration required (same requirements that apply to all other aircraft).
- Aircraft markings required (same requirements that apply to all other aircraft). If aircraft is too small to display markings in standard size, then the aircraft simply needs to display markings in the largest practicable manner.

### Model Aircraft

- Proposed rule would not apply to model aircraft that satisfy all of the criteria specified in Section 336 of Public Law 112-95.
- The proposed rule would codify the FAA’s enforcement authority in part 101 by prohibiting model aircraft operators from endangering the safety of the NAS.
INSURANCE CLAUSES

AVIATION INSURANCE POLICY
UNMANNED AIRCRAFT SYSTEMS

FOR

SKY EYE LLC AND ED MARKLE

ARRANGED BY:

AVIATION SOLUTIONS, LLC
1320 NE WINDSOR DRIVE
LEE'S SUMMIT, MO 64086

Item 3. LIMITS OF INSURANCE:

The limits of the insurance afforded by this policy are:

PART 1 - LIABILITY

1. Each Occurrence Limit: $1,000,000

2. Each occurrence sub-limit and deductible applicable to damaged property:
   Damage to Cargo Limit: $NIL
   Cargo Deductible: $NIL

   The sub-limit described above is part of and not in addition to the Each Occurrence Limit.

Item 4. DESCRIPTION OF INSURED AIRCRAFT:

The insurance afforded is only as respects the scheduled aircraft shown in the Aircraft Schedule(s) made part of this policy and to any newly acquired aircraft.
Item 5. AIRCRAFT USE:

All operations of the Named Insured.

Pilots

Item 6. PILOTS:

The policy shall not apply while a scheduled aircraft is in flight unless the pilot in command is Ed Markle.

PART 1 – LIABILITY

COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement.

(a) We will pay those sums that the insured becomes legally obligated to pay as damages because of bodily injury or property damage that occurs during the policy period and is caused by an occurrence that takes place in the coverage territory arising out of the ownership, maintenance, or use of a scheduled aircraft.

We will have the right and duty to defend the insured against any suit seeking those damages. However, we will have no duty to defend the insured against any suit seeking damages for bodily injury or property damage to which this insurance does not apply or when this insurance is excess. We may, at our discretion, investigate any occurrence and settle any claim or suit that may result. But, the amount we will pay for damages is limited as described in SECTION IV - LIMITS OF INSURANCE. Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverage A.

2. Exclusions.

In addition to the exclusions contained in SECTION II – GENERAL POLICY EXCLUSIONS, the following exclusions apply to Coverage A.

This insurance does not apply to:

(f) DISPENSABLE LOADS

Bodily injury or property damage resulting from the release of a dispensable load from the aircraft component of an unmanned aircraft system.

Provided no part of the dispensable load consists of munitions, this exclusion (f) shall not apply to any claim or suit caused by or resulting in an aircraft crash, fire, explosion, or collision or a recorded in flight emergency causing abnormal aircraft operation.
SECTION III – WHO IS AN INSURED

1. You are an insured as respects all coverages.
2. As respects PART 1 - LIABILITY, the following are insureds if you are:
   (c) A limited liability company: your members, managers and employees, but only with respect to their duties as your members, managers, or employees.

SECTION IV – LIMITS OF INSURANCE

1. As respects PART 1 - LIABILITY:
   (d) The limits that shall automatically apply to a newly acquired aircraft are the same as those applicable to the first scheduled aircraft of the same make and model shown in the Aircraft Schedule(s).

DEFINITIONS

Dispensable load means cargo configured to be dispensed from an aircraft in flight.

Flight means:
   (a) As respects any aircraft other than a glider without self-launch capability or lighter-than-air aircraft, the time commencing with the application of power for takeoff and continuing until (1) the completion of the decelerating run after touching down or (2) touching down in the case of a vertically landed aircraft;

In motion means:
   (a) While the aircraft is in flight, moving under its own power or the momentum generated therefrom, or on water and not moored; or
   (b) If the aircraft is a rotorcraft, anytime that the rotors are rotating.

Newly acquired aircraft means the aircraft component of an unmanned aircraft system that has been certified for flight by a civil aviation authority, which you acquire after the beginning of the policy period by purchase or by exclusive written lease for a period in excess of thirty (30) days; but, only if:
   (a) It is in addition to and of the same make and model as an aircraft component of an unmanned aircraft system shown in the Aircraft Schedule(s);
Payload means equipment that is capable of enhancing the utility of the aircraft component of an unmanned aircraft system on which it may or may not be installed, the value of which is to be treated separately from that of a scheduled aircraft and not included in the insured value thereof. However, payload shall not include dispensable loads.

Pilot in command means the pilot responsible for the operation and safety of the aircraft.

Scheduled aircraft means the aircraft component of an unmanned aircraft system that has been certified for flight by a civil aviation authority and which is shown in the Aircraft Schedule(s), and also

Unmanned aircraft system means a complete system, certified as such by a civil aviation authority, consisting of an aircraft and the associated equipment needed for its operation and remote control.
Hear Presentation on Insurers' Appropriate Use of Data and Its Benefits
How Insurers’ Use of Data Benefits Consumers

Presented by David F. Snyder
PCI Vice President, International Policy

NAIC Spring 2015 National Meeting
March 30, 2015

Presentation Outline

• Why more data?
• The importance of additional data in fraud fighting, disaster management and claims handling
• The importance of additional data to enhance risk assessment which helps create a well-functioning market
• The need for insurers to enter a new digital world
• Three key take-aways
Why more data?

• Today’s advanced technology yields a wealth of data to help insurers make pro-active knowledge-driven decisions, predict pro-consumer outcomes, increase efficiency and lower costs

• Data mining tools can improve:
  ○ Fraud fighting, disaster management and claims handling
  ○ Risk assessment by studying patterns and relationships
  … all which ultimately benefit consumers and markets

• With additional data and innovation insurers can perform traditional functions more efficiently and better meet the demands of new, younger customers and continue to play their vital social role

• States have all the power they need under current regulation to oversee these developments

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Fraud fighting benefits everyone—consumers, companies and government

• Insurance fraud costs honest consumers about $30 billion annually (Insurance Information Institute)

• More sophisticated insurance fraud stems from more advanced technology – growing suspicious activities require at least an equally sophisticated response

• Coalition Against Insurance Fraud study findings:¹
  ○ “Data is the most valuable commodity for any anti-fraud technology”
  ○ “The more intelligent the tools, the greater chance of detecting fraud…”

¹ CAIF, The State of Insurance Fraud Technology, Sept. 2014
Example of fraud detection:
Data mining is useful in identifying & investigating payment / billing schemes

• One insurer’s data mining software found that a pharmacy added unwarranted prescriptions to patients’ real claims to collect more payments

• Due to the growing attention of overall prescription costs, Centers for Medicare and Medicaid Services are calling for greater use of data mining

Source: CAIF, Prescription for Peril: How Insurance Fraud Finances Theft and Abuse of Addictive Prescription Drugs, Dec. 2007

Technological advances and additional data have profound impact on disaster management

• In light of rapidly evolving disasters, data analytics are useful for real-time threat assessment – information can be pulled promptly from social media, news reports, satellite images, etc.
  ○ Example: data mining was useful in identifying missing persons after mudslide (Johns Hopkins newsletter)

• Additional information provides data points for CAT models not available in conventional simulations

• Enhanced models provide valuable intelligence for more effective decision making, damage mitigation and other CAT solutions
### More data and claims analytics help insurers improve overall claims settlement process

- Data mining allows insurers to benchmark similar claims and their payouts to:
  - improve loss cost management and have more equitable settlements
  - predict better outcomes once claims are reported
  - more accurately forecast claim reserves
- More effective claims handling improves customers’ satisfaction levels and relationships with insurers

### Additional data improves risk assessment so premiums more closely match the expected cost of risk

- A refined risk classification system benefits all consumers
Each state’s auto insurance market is competitive: households have access to coverage from many different insurance companies.

U.S. residents spend less of their income on auto liability insurance than on other necessities.

Source: PCI, based on 2012 data from U.S. Bureau of Labor Statistics, Bureau of Commerce and NAIC (auto insurance); expenditures are presented as a percent of the median household income ($51,371).
More affordable rates have led to a generally declining uninsured motorist population in the U.S.

More equitable rates mean very few drivers are now in the auto insurance residual market in the U.S.
The auto insurance risk assessment process is improved by the use of data and telematics, e.g., usage-based insurance (UBI)

- Through increased data on actual driving performance, UBI is a means to more accurately reflect risk
- UBI provides driver with information on how to drive more safely
- UBI data is not shared with inappropriate parties
- UBI is objective and fair
- UBI is an example of the potential for data to recognize new factors that are predictive of risk

Auto insurance markets operate well under effective state regulation…

…characterized by free market forces that best serve consumers
Declining auto insurance complaint ratios indicate greater customer satisfaction

Note: The above ratios represent complaints about auto insurance made to the CO, IN, MI, MO, NY, NC, TX and WA insurance departments. Other states’ DOI’s do not have available data for all insurers and/or all years and are, therefore, not included. NY years reflect 2007-2011; the TX base is per policy.
Source: Internet searches

Auto insurers do not make unreasonable profits: comparison of rates of return on net worth (2004-2013 combined)

Source: NAIC Report on Profitability By Line By State in 2014
Insurer challenge:
Successfully meeting the new demands of a rapidly changing consumer landscape

Digital innovation required!

Tomorrow’s insurance consumers (e.g., Gen Y and millennials) want simplicity and greater speed to market

<table>
<thead>
<tr>
<th></th>
<th>% of Consumers</th>
<th>[VALUE] %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Used digital research to shop for insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Willing to download and use an app from their insurance provider</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Willing to use sensor tracking in exchange for lower premium</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Willing to share personal info for best deal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bought policy online (e.g., web or via a mobile device)</td>
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</table>

Insurers must reshape themselves to be more competitive and relevant in an emerging digital world

• To meet the needs of the new “digital natives” – who are better informed and expect more – and compete against new kinds of providers, insurers must connect with the new customers and deliver the outcomes they expect

• Insurers must enter a new digital world that includes:
  ○ social media
  ○ smart devices, sensor technology & wearable tech
  ○ cloud computing
  ○ big data and analytics

• Regulators have so far generally allowed insurers to meet these demands and it is vital that this continue


Three key take-aways
(1) Additional data enhances insurers’ ability to:

- Strengthen predictive analyses to effectively fight fraud and improve disaster management, risk assessment and claims handling
- Reduce cross-subsidies and provide coverage so as to benefit consumers
- Operate in a healthy, efficiently run and competitive insurance market

(2) The auto insurance market is functioning well—data has helped

- Many auto insurers provide a wide array of consumer choices in a sound competitive market
- Auto insurance is more affordable than other living essentials
- Nearly all insured drivers have coverage in the voluntary market and relatively few drivers are uninsured
- Relatively few consumer complaints are made
- Increased use of data has led, and can in the future lead, to new ways to assess risk, such as UBI, that help create and maintain well-functioning markets
(3) Insurers need digital innovation (big data, analytics, etc.) to effectively serve future generations

- Insurance has played a critical role in our society by compensating losses, pricing for risk and advocating for improved safety of transportation, buildings and workplaces

- But if insurance does not change to stay relevant to future generations, not only will the market be harmed, so too will society at large, with the loss of insurers as effective advocates for safer highways, buildings and workplaces

- Appropriate use of data and analytics becomes even more important to meet these needs through new products, new processes and new ways to interact with consumers

Conclusion

We urge you to continue allowing insurers to use meaningful data and valuable innovative tools that benefit consumers
Thank you for your attention

QUESTIONS?

Contact:
David F. Snyder
Property Casualty Insurers Association of America
david.snyder@pciaa.net
Hear Presentation About Insurers Use of Data