1. Discussed Recommendations on Ways to Improve the Regulation of Commercial Lines Insurance

Mr. Barclay asked the Working Group members to provide feedback regarding the recommendations provided concerning the ways to make the regulation of commercial lines insurance more effective and efficient. Ms. Dutill said she noticed that some of the feedback the Working Group received from both the Property Casualty Insurers Association of America (PCI) and the National Association of Mutual Insurance Companies (NAMIC) referred to the lower thresholds for the commercial policyholders that are currently in place in some states. She asked how many states with the lower thresholds would have a problem with increasing their thresholds. Mr. Barclay said the Working Group had discussed this issue; however, it is difficult to predict what the states’ reactions would be regarding an increase in the threshold. He said that both the insurance industry and consumer groups have discussed the value of uniformity; however, the industry has not been willing to support the increase of thresholds in states that have lower thresholds.

Ms. Nguyen asked what the lowest threshold is among the states. Lisa Brown (American Insurance Association—AIA) said the lowest threshold is $10,000. Mr. Barclay said there is a wide variation amongst the states and that some states are not in need of any threshold due to deregulation. Ms. Brown said she does not think the insurance industry would support raising the threshold for an exempt commercial policyholder (ECP) unless it could be demonstrated that there is a quantifiable problem in a state that has one of the lower thresholds. She said the raising of thresholds would put up an additional barrier to product innovation. Mr. Barclay said the Working Group understands the AIA’s position. He said that, initially, both industry and consumer groups supported the importance of uniformity; however, the variation of the thresholds from state to state make uniformity difficult in practice. He said the Working Group will need to say something regarding the ECP definition in its recommendations.

Mr. Barclay asked the AIA provided the Working Group with information regarding state law summaries. Ms. Brown said some of the state law summaries are a few years old and might need some updating. Mr. Barclay said the Working Group updated some of the NAIC law summaries earlier this year when working on the NAIC Compendium Chart Compilation pertaining to the states’ regulatory frameworks for commercial lines rates and for exemptions from rate and form filing requirements for commercial lines. He said most of the relevant information is summarized in the NAIC Compendium Chart Compilation.

David Snyder (PCI) said the notion of reviewing the existing authority is a good idea. He said it is an outcome-based approach, meaning that each state is looking at its market and the needs of its local businesses and whether they are able to get the product they need quickly. Mr. Snyder said the states are also looking to see whether they are able to get the products they want rapidly enough to provide coverage using the insurance mechanism, as opposed to using some other mechanism. He said there ought to be a fairly easy way to work with the states to provide coverage for a Fortune 500 company that is doing business across the United States. Mr. Snyder said that, on the other hand, if focusing on a local market, this may require a different regulatory approach.

Wes Bissett (Independent Insurance Agents and Brokers of America—IIABA) said there seems to be more willingness on the part of policymakers to provide extensive ECP definitions when discussing exemptions from rating requirements and even more of a concern when discussing such a broad exemption from the substantive form requirements. He said there are entities buying commercial policies that might reach some of the existing thresholds that may not be viewed as sophisticated entities and should not be buying policies that have not been reviewed by regulators. Mr. Bissett said the Working Group may want to explore the possibility that rating requirement issues may not need to be handled in the same way in which form filings are handled. He said an effort that would drop the thresholds as they apply to form requirements would not be something the IIABA would support. Mr. Bissett said some of these low thresholds apply only to rate filing requirements and do not always
apply to both rating and form laws in the same way. Mr. Barclay said some of the states have applied the same thresholds for both rates and forms.

Birny Birnbaum (Center for Economic Justice—CEJ) said one of the ways to foster uniformity is to develop consistent definitions of commercial lines products among the states. He said the insurance industry should place more value on uniformity across the states.

Paul Tetrault (NAMIC) said it is not just the premium threshold that differs by state. He said the states also differ regarding the criteria they use; for example, whether a risk manager is needed or whether it is combination of other factors. Mr. Tetrault said it is not just a premium-level issue and it would be helpful to have more consistency among the states.

Mr. Barclay said the thresholds are not stated entirely in terms of premium, but there may be several criteria and the regulation or law may require something like if there are two or three out of five items, the risk meets the criteria, and so on. He said it is complex and it could be difficult to rank the states based on their thresholds.

Mr. Birnbaum said the premise behind the ECP is that there is a policyholder of sufficient size and scale to be sophisticated enough to engage directly with the insurer without some of the protections that a regulator might otherwise provide. He said it is unclear as to why someone in New Jersey would be considered “sophisticated” at a $10,000 level, while someone in Missouri would not be considered “sophisticated” until reaching the $50,000 level. Mr. Birnbaum said he does not see the rationale for the variation of thresholds among the states in defining an ECP. He said if there is no benefit to achieving uniformity by raising the threshold in some states so that the threshold is the same across all states and no consistency regarding the definition of an ECP, then the industry is saying that there is no need for uniformity.

Mr. Barclay said the Working Group understands the positions they are hearing from the various parties. He said the Working Group will keep these positions in mind when drafting recommendations. Mr. Barclay said that once the draft recommendations are written, the Working Group will have a fuller discussion.

Mr. Barclay asked for volunteers to work with him to draft recommendations that would be a more complete version of what has been initially written. He said there would have to be a placeholder for the interstate compact issue. Ms. Dutill and Mr. Worman volunteered to help draft recommendations. Mr. Barclay said the Working Group would meet via conference call in February 2015 to discuss the recommendations.

2. Discussed the Preface to SERFF Data

Mr. Barclay asked the Working Group if there were any changes to the draft preface for the Commercial Lines SERFF Data Summaries. Ms. Dutill said the preface provides a good explanation regarding the content of the charts and where the data came from. She asked how far in-depth the Working Group wants to go with the overview and who the intended audience would include, industry or consumers. Mr. Barclay said the intended audience would be anyone who is interested in the subject matter. He said the preface, as written, includes the appropriate level of information needed.

Ms. Pallozzi said that, due to the variation of state laws, it is important to provide an explanation for the reader to understand that there is no simple comparison across the states due to state differences. Ms. Dutill said that if the intended audience includes regulators and individuals that have an interest in turnaround time and disposition activity, etc., then the amount of information written is sufficient. Ms. Pallozzi said it is important to specify the differences between the states and why the differences exist, because oftentimes data is provided to state legislatures and others beyond regulators.

Mr. Birnbaum said the information in some of the disclaimers or caveats is critical. He asked if it might be useful to emphasize that the information should not be distributed separately from the summary and cautions, with the particular cautions being highlighted. Mr. Birnbaum said the idea behind the preface is to provide information that needs to be considered when looking at the data, so that the data is not used in a misleading fashion.

Mr. Barclay said that once the Working Group is done with the recommendations, the preface would be included with the charts. Ms. Brown said a caveat stating that the charts should not be viewed without the preface is a good caveat to add.

Mr. Snyder said one of the underlying missions of the Working Group’s effort is for the states with the same regulatory systems to exchange between themselves best practices about how to comply with the law, but to move things along with reasonable speed. He said that, short of statutory changes, he hopes the recommendations would include ways in which each
regulatory system might work better. Mr. Snyder suggested checklists and upfront dialogue with a company early on in the process, as well as things that have come out in the Working Group’s prior discussions. He said it is important for the data to be used properly.

3. **Discussed Other Matters**

Mr. Barclay said a copy of the commercial lines interstate compact survey was sent to the top 20 commercial lines groups. He said the due date for survey answers is Jan. 31, 2015. Mr. Barclay encouraged the trade association representatives on the call to ask their members to complete the survey.

Having no further business, the Commercial Lines (EX) Working Group adjourned.

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March 5, 2015 Minutes

Coming Soon
COMMERCIAL LINES SERFF DATA SUMMARIES

Important note: The commercial lines SERFF data summaries that follow should not be distributed or reviewed without this three-page preface. This preface contains important cautionary information that is essential for understanding and interpreting the data.

The tables and graphs on the following 153 pages are intended to fulfill the Commercial Lines (EX) Working Group’s charge to “[d]ocument and review the average time for approval of commercial lines forms and rates by the states, to include the extremes, for various types of commercial insurance products.”

To enable the working group to fulfill this charge, NAIC SERFF staff provided data from SERFF in Excel format. The selected data pertained to commercial lines filings closed during the period from July 1, 2011, through June 30, 2014. Using the types of insurance (“TOIs” and “sub-TOIs”) in the NAIC Property and Casualty Product Coding Matrix, the working group had selected ten commercial lines of business of particular interest:

- Commercial Property
- Businessowners
- Commercial Package Policy
- Other Commercial Inland Marine
- Medical Malpractice
- Workers’ Compensation
- “Combined” (Other Liability [excluding personal lines] plus Product Liability)
- Commercial Auto
- Boiler & Machinery or Equipment Breakdown
- Commercial Interline Filings

Filings in the data set were categorized into three groups: Rates/Rules, Forms, and Combined Rates/Rules/Forms. Some states do not allow rates, rules, and forms to be combined in a single filing. Some states also use additional filing types that cannot be assigned to one of those three groups.

Filing dispositions (outcomes) were also classified according to whether they were positive or negative from the filer’s point of view. For example, a filing closed as disapproved or withdrawn has a negative disposition. A filing that is approved, with or without being modified during the review process to meet state requirements, has a positive disposition. There are other filing dispositions that are considered positive too; for example, if the insurer is permitted to implement the filing without the insurance department’s review or approval, that also is a positive outcome for the filer.

Sorting the data by line of business, filing category, positive or negative disposition, and state, the working group chose to display the following statistics in the first 99 pages of tables:
• Number of Filings
• Average Number of Days from Submission to Disposition
• Average Number of Objection Letters Per 100 Filings

The bar graphs on the subsequent 54 pages—one page for each jurisdiction which had data—show the distribution of the number of days it takes from filing submission to positive filing disposition for each of the 10 selected lines of business. These graphs allow the reader to see more than just the average number of days it takes. And the inclusion of a category for “121+” days is a way to fulfill the working group’s charge of “including the extremes.”

Because Florida uses an electronic filing system other than SERFF, no data from Florida appear in these exhibits. And if some states did not mandate the use of SERFF for all or part of the period from which filing data were selected, there may be other filings that are not included in the data summaries.

The working group believes that the countrywide data have limited value. The countrywide averages and distributions are included for information, but they should not be regarded as “norms” in any sense.

The charts do not reflect any measure of the effectiveness of any state’s review of rate and form filings.

Even a cursory review of the data reveals significant differences by state in the data presented here. The reasons for these state-by-state differences include:

• Varying laws and regulations that prescribe the legal framework for review and approval of commercial lines rate and form filings. These legal frameworks are sometimes described using brief terms such as “prior approval,” “file and use,” “use and file,” “flex rating,” “deregulated,” etc. But even these short descriptions have variations in meaning and application in various states. For example, a file-and-use law with a 30-day deemer provision can be equivalent to a prior-approval system if the insurance department reviews and acts on every filing within 30 days. Some state laws require hearings on certain filings, which can prolong the time needed to close the filing. Users of these SERFF data summaries may find it helpful to refer to the NAIC Compendium Chart Compilation, which is a state-by-state summary of legal requirements pertaining to property and casualty rate and form filings. This document was updated by the working group in 2014.

• The resources available to each state insurance department for review of rate and form filings. For example, some insurance departments employ their own actuarial staff. Others may need to engage a consulting actuary when actuarial review of a filing is necessary.

• The priority that each insurance department gives to rate and form review for each line of business. Given the resources available to each state insurance department, these departments are constantly prioritizing filing types, lines of business, and individual filings. The priority assigned to the filing types and lines of business included in these SERFF data summaries certainly has an effect on the data.
- **Other process differences.** For example, some states may reject or disapprove a filing if it is incomplete, whereas other states may keep a filing open until the missing documents have been submitted. Some states accept informational filings; other states do not.

It is also important to recognize that not all of the time from filing submission to filing disposition or approval is time when the filing is being reviewed or is waiting for regulatory review. When state insurance departments ask questions or send objection letters, it sometimes takes filers a significant amount of time to respond. The data presented in these summaries include—to use a sports analogy—both the time the ball is in the regulator’s court and the time the ball is in the company’s court.

The Commercial Lines (EX) Working Group hopes that regulators and interested parties will find these commercial lines SERFF data summaries helpful. But the working group also urges readers to take caution and care in interpreting the data, in light of the considerations mentioned above.
SERFF Approval Time Data Reports

*Use this link:*

Draft Recommendations
as of March 5, 2015
1. **Definition of commercial lines**

States should ensure that consumers are protected when individual consumers pay the insurance premiums.

Consumer representatives have called the Working Group’s attention to lines of business in which the insured is, technically, a business, and yet individual consumers pay the insurance premiums. There are other situations in which a large business negotiates rates and policy coverage for insurance products that are marketed (by that large business) to individual consumers. Examples include lender-placed homeowners and auto insurance, mortgage guaranty insurance, and portable electronics insurance. In situations such as these, states should ensure that the regulation of rates and forms provides an appropriate level of protection for consumers. Such lines of business should not be regulated on the assumption that they are similar to other commercial lines.

The Working Group chose not to create a precise definition of commercial lines for purposes of rate and form regulation. Each state that implements this recommendation will have to tailor its action to its own legal and regulatory framework. In some states this may require revisions to statutes and regulations. Other states may be able to implement this recommendation by issuing bulletins and changing review procedures and priorities.

2. **Definition of exempt commercial policyholder**

The NAIC should consider revising the definition of exempt commercial policyholder (“ECP”).

Currently, based on the compendium recently updated by the Working Group, only 22 states have specific criteria in statutes or regulations exempting policies pertaining to large commercial risks from rate and/or form filing requirements. Several states have different definitions (thresholds) for filing rates and forms. Some provide exemptions for rate filings but still require the filing of forms. Other states apply identical criteria to rates and forms, respectively.

Very few states use the criteria outlined in the NAIC *Property and Casualty Model Rate and Policy Form Law Guideline* (GDL-1776) and the NAIC *Property and Casualty Model Rate and Policy Form Regulation Guideline* (GDL-1781), preferring instead to use thresholds much lower than those recommended in the guidelines. In comments made to the Working Group insurance industry representatives have indicated that the states’ failure to adopt uniform
definitions of ECP is a significant problem. If given a choice, however, between lower thresholds and uniformity, the industry appears to prefer the former.

The NAIC should consider studying states with existing ECP thresholds to identify best practices and determine whether the NAIC guidelines should be amended in order to encourage more states to introduce exemptions for commercial lines rates and forms. In particular, an industry suggestion that the threshold for form filing exemption should be higher than that for rate filing exemption merits consideration, as businesses may find it easier to understand a premium calculation than to understand the nuances and possible consequences of various policy form provisions.

3. Manuscript policies

**States should consider allowing manuscript policies to be used without prior approval.**

Manuscript policies are policies written on unique forms designed to cover only a single policyholder (in some states such policies may be used for up to three different policyholders). These policies are often written to cover large commercial risks with unique exposures. In many states, manuscript policies are not required to be filed or, if filed, are not subject to prior approval. Other states should consider whether one of these approaches would be appropriate, and if it is found to be appropriate, should implement that approach.

4. Policies for multistate risks

**States should consider establishing conditions under which policies for multistate risks would be exempt from form and rate filing requirements.**

On several occasions insurance industry representatives have expressed to the Working Group their concerns that state form and rate filing requirements, as they are applied to policies for multistate risks, can result in significant inefficiencies. When an insurer issues one policy to cover the risks or exposures in all states in which the insured has operations, the insurer may face several significant issues, including:

- Multiple (and possibly conflicting) amendatory endorsements may be required by various states;
- The regulatory framework (prior approval, file and use, use and file, etc.) may vary from state to state; and
- Even though the policy has a single effective date, the timing of individual state approvals, if required, may vary.

To address the issues related to policies for multistate risks, states should consider establishing conditions under which policies for multistate risks would be exempt from form and rate filing requirements. This exemption would recognize the precedence of transactions that occur
outside of a state where perhaps only a small part of the insured exposure is located. To prevent misuse of the exemption, states should consider all elements of the transaction. Specifically, the insured must not be headquartered in the state, and the entire transaction (negotiations, correspondence, policy deliverance, payment) must take place outside of the state. For example, an insurer issues one policy to an insured headquartered in state A with operations also in states B and C. The entire transaction takes place in state A, including policy negotiations, correspondence, policy deliverance, and payment of premium. Because no part of the transaction takes place in states B or C, the policy would be exempt from form and rate filing requirements in states B and C.

5. **Review of existing authority**

Each state should review its existing authority to improve the efficiency and effectiveness of rate and form review for commercial lines.

Many states have laws that allow the Commissioner (or Director or Superintendent) to modify or eliminate filing requirements for certain types of policies or certain lines of business. In some states the Commissioner can do this only by adopting rules. In other states the process may be less formal. Each state should review its existing statutory authority with respect to commercial lines rate and form filings, looking for changes that could be made to improve the efficiency and effectiveness of rate and form review for commercial lines.

6. **Interstate compact** [To be drafted after industry survey results are reviewed]
Interstate Compact
Survey Results
<table>
<thead>
<tr>
<th>Number</th>
<th>If commercial lines interstate compact legislation were proposed in state legislatures, would you support it?</th>
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<tbody>
<tr>
<td>1</td>
<td>Yes</td>
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<td>Don't Know</td>
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<tr>
<td>Number</td>
<td>If you would support only under certain conditions, what are those conditions?</td>
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<td>To be most beneficial, the compact should ideally include all states, or at least the vast majority. The compact’s utility would be limited if too few states were included. Additionally, the larger premium states are more important to include within the compact. If the compact contained mechanisms allowing participating states to opt-out of any uniform process or standard, it would be ideal if such opt-outs were kept to a minimum. Numerous opt-outs could decrease the utility of the compact.</td>
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<td>It would be more efficient if the compact included both form filings and rate filings and apply to all lines of business. Having different methods (and possibly different tools) for form and rate submissions as well as different approaches to lines of business, could create inefficiencies from a processing and coordination standpoint. Additional filings would be required in those states where forms and rates can currently be submitted in a single filing if the compact did not include both types of filings.</td>
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<td>We would need the ability to deviate pricing by state. Also, the interstate compact would need to be optional and not required.</td>
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<td>Depends on what additional costs this would add to the filing process (cost of the compact-additional registration fees) and how many states sign up for the compact. There is a possibility that this would escalate our costs and only be available in certain jurisdictions. Of course this could also mean lower filing costs depending upon the states that sign up to be part of the compact and quicker implementation of changes and new products. I understand there may be annual compact registration costs at the very least. Some states like Delaware for example, have significant filing cost for forms. If they were part of the compact maybe our filing cost would lowered if based upon a filing “standard” that the compact would implement. On the bright side, the number of filings would be reduced since our assumption is we would only make filings once for the compact states and individually for all other states.</td>
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## Commercial Lines Interstate Compact Survey

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<th>If you would support only under certain conditions, what are those conditions?</th>
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<td>7</td>
<td>We are intrigued by the idea of an interstate compact for commercial lines for one-stop filing and review of commercial lines policy forms and rates to enable an insurer to make a single filing and use that approved product in multiple states. Our support for the final product would depend upon the terms and conditions of the NAIC model and each state’s version of the legislation. Our support would also be conditioned upon preservation of our ability to submit a rate or form approval request directly to a compacting state in lieu of using the compact.</td>
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<td>8</td>
<td>While the company supports the modernization of the regulation of commercial lines property &amp; casualty insurance, support for an interstate compact would depend on its structure and the products. The company believes that flexibility in rate and form filing and speed to market are important to modernizing the regulation of commercial lines.</td>
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<td>Theoretically and from a processing perspective, a commercial lines interstate compact may offer the potential to recognize many efficiencies relative to rate and form filings. However, we believe that numerous issues must be overcome to realize the ultimate goal, and that such issues may be potentially insurmountable. To function effectively, an interstate compact would require the participation of all states in this endeavor. Every state must participate in the compact. For example, recent experience with the interstate compacts relating to non-admitted insurance bear witness to the difficulty of obtaining universal state participation and thus the ultimate reticence of most states to enter into the surplus lines compacts. In addition, various matters pertaining to an interstate company would require resolution, including but not limited to - the interaction / impact on federal and state antitrust laws, confidentiality, the process by which objections are raised and addressed, how varying tax and assessment bases are managed, as well as potential implications for the level of scrutiny to which the filings would be subject, given the varying individual state standards that currently abide.</td>
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<td>If you would support only under certain conditions, what are those conditions?</td>
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| 10     | • Ability to “mix and match” policy forms and endorsements (as opposed to “products“) whereby the forms and endorsements portfolio for a company program can consist of both compact-approved and state-approved forms within a state.  
• Rate and policy language standards as developed by the compact would pre-empt state standards.  
• A commitment that compact standards would strive to reflect some type of middle ground when considering the mix of state standards. In other words, carriers would want to be assured that the most restrictive or demanding state standard would not be the default standard when developing compact standards (for example, in the development of a Flesch Score readability standard).  
• Insurance carrier participation in the compact standards development process.  
• Guaranteed ongoing insurance carrier representation on any compact governing body.  
• Inclusion of a reasonable deemer mechanism in the construction of compact approval procedures.  
• Trade secret underwriting guidelines are outside the scope of the compact.  
• Review standards for policy language should be complete and specific, so that the scope for disapproval based on general grounds (for example, contrary to public policy) is limited. |
<p>| 11     | Of course, our support would depend on the detail of the proposal, but in principle, we are likely to support a compact for forms. We are less certain about a rate and rule compact. |
| 12     | The Company would be open to any interstate compact that improves the state filing process providing greater flexibility &amp; efficiency. The Company would only ask that exceptions/conditions are clearly communicated and are as easy to execute as possible. We believe the mix and match concept from the current compact should be used as well. |
| 13     | The Company has interest in exploring the potential benefits of a commercial lines interstate regulatory compact. Additional information regarding the filing and approval procedures, including system requirements, timing of submissions and approvals as well as the standards that would be applied by the compact for approval of rates, rules and forms would be helpful. |</p>
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<tr>
<th>Number</th>
<th>If there were an interstate compact for commercial lines, similar to the IIPRC, would you be likely to file commercial lines rates and forms through this interstate compact?</th>
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<td>If you would file commercial lines rates and forms through an interstate compact only under certain conditions, what are those conditions?</td>
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<tr>
<td>9</td>
<td><strong>If you would file commercial lines rates and forms through an interstate compact only under certain conditions, what are those conditions?</strong></td>
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| 10     | • Participation would likely be subject to the applicable conditions listed in the response to Question 1.  
        • Would need to make sure compact approvals reference the specific states in which the form or rate was filed and approved so the carrier has adequate documentation of the approval.  
        • It is sometimes necessary for insurers to implement the same form or endorsement on different dates in the different states. It would be important for this flexibility to be available so the same form could be approved with staggered effective dates in the different states.  
        • Would want compact reviewers to be willing to participate in written or oral dialogue to discuss submissions. Such dialogue is sometimes necessary today to resolve questions on filings.  
        • Would want to continue to use SERFF on compact submissions. |                                                                                                                                                                                                                                                                          |
<p>| 11     | Of course, our support would depend on the detail of the proposal, but in principle, we are likely to support a compact for forms. We are less certain about a rate and rule compact. |                                                                                                                                                                                                                                                                          |
| 12     | Yes, The company would use the interstate compact provided it improves flexibility &amp; efficiency and promotes speed to market. |                                                                                                                                                                                                                                                                          |
| 13     | See comments above. If the benefits of the compact are ultimately borne out, (e.g. efficiency gains including ease of filing, improved speed to market, reasonable uniform standards), The company would be inclined to make filings through the compact. |                                                                                                                                                                                                                                                                          |</p>
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<thead>
<tr>
<th>Number</th>
<th>Description</th>
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<tr>
<td>1</td>
<td>While a well-functioning compact would be a benefit to all lines of business, the commercial property line of business would definitely benefit from the use of a compact.</td>
</tr>
<tr>
<td>2</td>
<td>The less heavily regulated or more standardized coverages – property all risk, inland marine coverages, boiler and machinery, commercial general liability, etc.</td>
</tr>
<tr>
<td>3</td>
<td>Property, General Liability, Boiler, Inland Marine and Crime</td>
</tr>
<tr>
<td>4</td>
<td>We would entertain the use of the interstate compact for all of our commercial lines of business.</td>
</tr>
<tr>
<td>5</td>
<td>Would not be beneficial for Commercial Auto.</td>
</tr>
<tr>
<td>6</td>
<td>I would venture that all lines of business should be considered. Those lines that have considerable variation from state to state such as Accident &amp; Health, Auto and WC would definitely benefit. Our hope is that the compact would bring some uniformity to the coverages under these lines.</td>
</tr>
<tr>
<td>7</td>
<td>We believe the following commercial lines would be best suited for the filing of rates and forms through an interstate compact: inland marine, property, surety, fidelity, crime, farm, machinery &amp; equipment, umbrella, and general liability.</td>
</tr>
<tr>
<td>8</td>
<td>The focus would need to be on products with little diversity.</td>
</tr>
<tr>
<td>9</td>
<td>Less competitive lines of business which tend to be more homogeneous countrywide seem to be best suited to the filing of rates and forms through an interstate compact. That said, for these same reasons, such filings are the most straightforward and tend to be timely approved. Therefore, the benefit of participation in an interstate compact, if applicable only to lines of business of this nature may not be significant.</td>
</tr>
<tr>
<td>10</td>
<td>Businessowners, Commercial Property, General Liability, Commercial Umbrella, Equipment Breakdown, E-Commerce, Crime/Fidelity Bonds, Commercial Inland Marine, Commercial Package, Landlord Package (for example, property/liability packages on one- to four-unit buildings rented to others on a full-time basis or rented condominium units), Professional Liability, Directors and Officers, Employment Practices Liability, “Other” Errors and Omissions Liability, Workers Compensation.</td>
</tr>
<tr>
<td>Number</td>
<td>Which specific commercial coverages or lines of business are best suited to the filing of rates and forms through an interstate compact?</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>All lines are suitable excluding Workers Compensation, given the bureau &amp; individual state regulatory requirements. The Company would suggest all forms &amp; rates that are not specifically related to an individual state law or requirement, examples would include state fees &amp; surcharges or specific no fault or uninsured/underinsured forms or rates. ISO specific changes would be ideal allowing the industry to move these changes more efficiently.</td>
</tr>
<tr>
<td>13</td>
<td>We would expect that all of the major lines could be susceptible to effective rate, rule and form filing regulation via the compact, including Commercial General Liability, Commercial Auto, Commercial Property and Businessowners Policies.</td>
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</table>
### Commercial Lines Interstate Compact Survey

<table>
<thead>
<tr>
<th>Number</th>
<th>Additional Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The IIPRC “product standard” that would pre-empt state laws, could have an impact on the marketability of products. Once set and applied uniformly, these standards could either be a benefit or a detriment depending on what the product standards are. It would be beneficial to have clarification regarding what is meant by “product standards.”</td>
</tr>
<tr>
<td>2</td>
<td>N/A</td>
</tr>
<tr>
<td>3</td>
<td>We believe this would bring consistency to property and liability coverages, which is good for consumers. However, it is imperative that we be able to adjust rates at the state level.</td>
</tr>
<tr>
<td>4</td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>Concerned that an interstate regulatory compact would not prevent some states from adding additional regulatory requirements or drive the compact to the highest common denominator of regulatory oversight.</td>
</tr>
<tr>
<td>6</td>
<td>We believe that forms for certain sophisticated lines of business typically written for large commercial risks such Directors &amp; Officers coverage, and coverage for representations and warranties made during the course of a business merger or acquisition should not be subject to regulatory review, but rather should be left to the parties to negotiate. Sophisticated insureds typically retain insurance professionals with the expertise to negotiate a product that best meets the needs of their clients without the need for regulatory oversight.</td>
</tr>
</tbody>
</table>
| 7      | Given wide variances in state laws regulating or otherwise impacting the provision of commercial automobile insurance and professional liability insurance (medical malpractice) we question whether an interstate compact would be feasible for the filing of rates and forms in these commercial lines. We also have general concerns with:  
  • our ability to continue to use our unique and proprietary commercial lines forms under an interstate compact.  
  • information technology issues arising from an interstate compact for commercial lines might be more challenging than those we faced with the interstate compact for life insurance products (life insurance products are more commodity-like than commercial lines products).  
  • the ability to tailor rates to fit the regulatory, legal and environmental needs of each state through an interstate compact. |
Modernization of commercial lines regulation that promotes speed to market across the various states is what is needed to create greater market efficiencies and effectiveness while promoting rate and form flexibility. The industry needs to be able to provide new products as well as rate changes in a quick and efficient manner to the benefit of the commercial consumer. Another consideration is how an interstate compact would be coordinated with the current rating agencies such as ISO, AAIS and NCCI. The coordination of all the state variations and exceptions would need to be streamlined to make a compact effective.

Commercial P&C Insurance rates, in contrast to policy language, present a reviewer with a special kind of complexity. Even if the same policy language is in place in multiple jurisdictions, the claims and loss adjustment expense costs will be different both between and within states due to many factors. These factors include, but are not limited to, weather, police and fire protection, population density, building codes, and the judicial environment. Rating reviews will need to be conducted below the statewide level and would require significant actuarial resources. While rating reviews might be conducted under a compact scheme at some point, it would be prudent for a Commercial P&C compact to address only policy language regulation initially.

The Company is known for writing commercial property insurance for large Highly Protected Risk business, including many “jumbo” accounts. Our clients understand the risks that challenge them, and manage those risks in many different ways. For example, one client may ask for enhanced transit cover, another might ask for lesser cover, and a third might ask for cover to be deleted because it arranges a separate transit policy elsewhere. Many of our clients operate internationally, and even more have locations in multiple jurisdictions in the USA, and they all give us a consistent message: ‘we want to arrange a broad insurance program that meets our particular requirements in a uniform manner across our business footprint’. They would prefer to have consistent cover across all their locations, and not have it modified from territory to territory and state to state, and therefore, we are in favor of any activity by the states that might support our clients in this respect. From our own perspective, we would of course support enhanced efficiency in the filing process. Because our clients require countrywide cover, our policy terms typically cover at least the USA, and are often worldwide, and therefore we have to comply with the filing requirements of all 50 states, DC, and the dependent territories. In other words, we have to comply with 56 different filing requirements just to issue the US portion of a policy, never mind the filing requirement of other territories worldwide. As a mutual insurer which is committed to providing risk management solutions to our client owners, our real interest in any future compact would be on the effect it has on our client’s insurance cover. In our opinion, large insureds would benefit from being exempt from filing requirements, as this would allow them the flexibility to determine their own program terms to meet their own particular needs. As a second option, we would support increased uniformity of coverage requirements amongst the states, as this would at least simplify the terms of a countrywide policy. However, we expect the states to take the opportunity to review their existing requirements, and remove some that are not truly necessary for the protection of large sophisticated entities, as it would be detrimental to our clients if the states simply took the existing individual requirements of every state, and aggregated them into countrywide requirements.
<table>
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<tr>
<th>Number</th>
<th>Additional Comments</th>
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<tbody>
<tr>
<td>12</td>
<td>N/A</td>
</tr>
<tr>
<td>13</td>
<td>The creation of a commercial lines compact appears consistent with the trend among states to loosen the regulatory oversight of commercial insurance. The efficacy of the compact will be dictated by the establishment of reasonable filing and approval standards by the compact.</td>
</tr>
</tbody>
</table>
Additional Comments Received

Not in survey format
January 30, 2015

VIA EMAIL

Mr. Lee Barclay
Chair
NAIC Commercial Lines (EX) Working Group

Ms. Kris DeFrain
Director
Research and Actuarial Department
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197


Dear Mr. Barclay and Ms. DeFrain:

The American Insurance Association (AIA) writes in response to the request the Commercial Lines (EX) Working Group made to the largest 20 commercial lines insurance groups requesting information regarding the interest of carriers in the establishment of and their potential participation in an interstate compact and commission for filing and review of commercial lines policy forms and, possibly, rates to enable an insurer to make a single filing and use that approved product in multiple states. 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 $100 billion annually in premiums. Thank you for expanding the opportunity to comment on the issue beyond the 20 surveyed insurance groups.

As we have stated in previous comments submitted to the working group, AIA’s members have significant interest in modernizing the regulation of commercial lines insurance in the U.S. in order to achieve the flexibility needed to ensure that the evolving needs of their commercial customers can be met in an effective and efficient manner.

AIA very much appreciates the recognition that without the support of insurers writing commercial lines insurance the development of a compact would be fruitless and a waste of valuable resources. To that end, AIA members have expressed initial support for the idea, but have shared some general concerns that follow.
An interstate compact for commercial lines of insurance would, of course, need to be a voluntary vehicle for insurers seeking product approval. An individual insurer would need to retain the option of foregoing filing a product through a compact altogether if it determines that is what is best for its business plan.

In order to ensure success, the compact would need to have participation from a large majority, if not all, jurisdictions – without this, its usefulness to industry would be limited. States with the largest commercial premium volume would be particularly important participants. Along these same lines, a compact for commercial lines would be of limited benefit over the current filing/approval system if there were too many mechanisms or opportunities built into the system allowing participant states to “opt out” of any uniform process or standard that has been established within the compact or commission. Likewise, it would be of limited benefit if a participant state could modify or augment the process by requiring additional documents or supplemental information.

Finally, there are some questions surrounding the treatment of advisory organization filings within a compact. How would bureau reference adoption filings be handled? How would a compact ensure a differentiation between members and non-members of rating organizations?

There are many issues for consideration unique to property and casualty insurance that would need to be fleshed out in developing a compact and commission for commercial lines insurance, but AIA believes that further exploration of the idea is certainly warranted before it is summarily dismissed.

* * * *

Again, AIA appreciates the collaborative process the working group has taken in completing its charges and thanks you for the opportunity to provide comment during this important exercise. We look forward to continuing to work with you on this and other solutions your group is exploring to provide carriers with rate and form flexibility for commercial lines insurance.

Respectfully submitted,

Lisa Brown
Sr. Counsel & Director, Compliance Resources
Response to NAIC Commercial Lines Interstate Compact Survey

Property and casualty (P&C) insurance companies vigorously compete with each other based on the breadth of the coverage offered in their policy forms and the suitability of that coverage to the insured’s particular risks and exposures. This is especially true for the commercial lines insurance market, where insurance companies offer coverage to nearly every entity in the business, industrial, government and non-profit sectors. A review of major commercial lines insurance company websites quickly reveals an overwhelming focus on the customization of the insurance coverage and benefits, including risk management and loss prevention services, offered to different segments and micro-segments of the economy.

Simply put: It’s not just the price that matters. Coverage customized to fit each industry’s unique exposures is essential.

To achieve this vigorous level of product feature-based competition, insurance companies have to regularly update and file new policy forms in 50 jurisdictions. But, insurance product regulation in the U.S. makes it difficult to launch new P&C products nationwide, as state insurance rules and insurance department filing response capabilities vary widely. Furthermore, some state product filing requirements are outdated. For example, rules governing commercial lines insurance coverage terms & conditions under claims-made policies often date back to the mid-1980s when the Insurance Services Office first introduced its “simplified” policy forms.

We do not believe that nationally standardized forms and terms will necessarily result in an improvement of this situation. Attempts to create nationally standardized policy forms are just as likely to narrow consumer options, stifle innovation and slow the market’s response to emerging risks. And, without nationally standardized policy form requirements, there are serious questions about how to launch an effective interstate compact.

We believe a meaningful cost/benefit analysis of the current U.S. regulatory system would support elimination of the type of line by line contract scrutiny that is currently conducted by states with respect to most business-to-business transactions. Greater policy form and rate freedom would help insurers rapidly meet the needs of commercial consumers, encourage greater private market competition in commercial insurance markets, and reduce the enormous expense associated with the insurance product approval process.

Standardized Policy Forms Do Not Meet the Needs of All Consumers

Even in the personal lines insurance market, the risk pool is not so homogeneous that consumers would benefit from nationally standardized forms and terms. The residential housing market in the United States includes an amazing array of exposures, from mobile homes to $100+ million estate properties, from newly constructed modular housing to properties listed on the National Register of Historic Places, from beachfront vacation
homes to city skyscraper penthouses. Furthermore, some perils – especially natural catastrophe perils – vary greatly with a home’s location, impacting the common types of construction in a region, replacement values and, of course, the need and demand for certain types of insurance coverage.

Well, the complexity in the risk pool is exponentially greater in the commercial lines market. The North American Industrial Classification System (NAICS) includes codes for no less than 1,170 unique industries. It is simply not possible to develop standard policy forms and terms that will meet this diverse array in insurance demands. A standard Commercial General Liability (CGL) policy form, for example, that meets the needs of an office furniture manufacturer is not going to provide sufficient liability insurance for a life sciences company conducting human clinical trials. Chemical companies making volatile or explosive precursors employed in multiple manufacturing processes across different industries have very different exposures and insurance needs than do retail clothing outlets. Even within industry sectors, the variability in insurance exposure can be enormous. As a result, risk managers, insurance advisors and insurance purchasers in the commercial lines market demand that insurers customize their products to fit the unique needs of each industry segment or micro-segment.

This demand is not theoretical. The insurance industry already has standard policy forms available for use, forms promulgated and filed by licensed advisory organizations such as the Insurance Services Office. But, other than for commercial automobile and workers’ compensation lines of business, most major commercial insurers no longer make extensive use of these standard forms. Driven by rapid changes in technology and the increasing number of industrial business models based on creative destruction, the pace of change in the U.S. economy simply has outstripped the ability of the developers of standard forms to meet the tremendous variety of risk in the commercial market.

**Commercial Modernization: A Recommended Approach**

A commercial lines interstate compact would be hard to implement without more uniformity among the states’ policy form requirement. Since adopting national rules for many commercial lines products has proven to be unachievable to date and carries with it some of the risks described earlier, we respectfully recommend the following approach:

> Simply remove the barriers to nationwide product sales.

In other words, don’t attempt to erect uniform hurdles to product approval in all 50 states; instead, seek to remove the filing regulations that impede that sale of uniform products countrywide whenever and wherever reasonably possible.

This is not an untested solution. Other industrialized nations, such as the United Kingdom, long ago concluded there is insufficient cost/benefit to justify the type of commercial lines product regulation exercised by the U.S. states.
**Step Approach**

In order to streamline the introduction of commercial insurance products, the NAIC and the states could begin a slow and deliberative process to deregulate commercial insurance products. We suggest phasing this approach in over multiple steps, beginning with *specialty* insurance products.

**Phase One**

A. Eliminate policy form regulations, including all filing/approval requirements and coverage mandates, for commercial *specialty* lines of business, including:

i. Environmental impairment/pollution liability;
   - *A very large portion of this market already is in surplus lines*

ii. Directors and officers liability;
   - *Publicly-listed companies, with the level of sophistication needed to comply with the rules of the SEC and the stock exchanges, would be a good place to start*

iii. Product liability and product recall;
   - *Few lines of business produce such an amazing array of difficult, and many times fatal, exposures*

iv. Aviation insurance (hull, liability and product liability);
   - *Already deregulated in many states, so should be a natural fit for a uniform approach*

v. Commercial inland marine;
   - *Also deregulated in some states under the Nationwide Marine Definition, so another potential natural for a more uniform approach*

vi. Cyber insurance;
   - *Rapidly evolving risk for which insurance and other financial sector regulators, as well as the Federal Government, would like to see an expanding insurance market*

vii. Media liability;
   - *Difficult line of business since media insureds often view themselves as defending free speech principles, not just a lawsuit*

viii. Employment practices liability;
   - *Another area where the legal environment is constantly evolving*

ix. Fiduciary liability;
   - *Not a Main Street line of business; underfunded pensions remain a huge problem*

x. Kidnap and ransom;
   - *Another specialty line of business not purchased by Main Street businesses*
xi. Professional liability and errors & omissions (other than Med Mal);
   = Many, many types of policies are written for highly sophisticated professionals, such as bankers’ professional liability, lawyers’ professional liability, E&O for private equity and venture capital firms, television broadcasters, educational institutions, etc.

xii. Surety and fidelity bonds;
   = A large portion of this market consists of bonds written for some of the largest contracting firms in the country

xiii. Private flood insurance.
   = Another line of business, like cyber, where regulators have a keen interest in expanding the market place

Why start with specialty insurance products? By initiating commercial lines modernization with specialty products, it would avoid arguments over the need to continue to regulate products sold to so-called “Main Street” businesses. These specialty lines of insurance are not the bread and butter types of insurance purchased by Main Street businesses across the country (i.e., commercial multi-peril, commercial general liability, commercial automobile, commercial property, workers’ compensation). Rather, these specialty insurance products generally are optional purchases as well as purchases made more frequently by larger enterprises and/or professionals with an educated understanding of their profession’s unique exposures, duties and obligations. The approach we are recommending – i.e., starting with specialty insurance – would have to be proven successful before considering the deregulation of lines of business thought of as Main Street staples.

B. Expressly permit the use of manuscript policy form changes and endorsements for all commercial lines of business, without any regulation or filing requirements, whenever the insured and/or their producer requests amendments to the insurer’s standard policy form. Customizing insurance coverage to fit the specific needs and requests of commercial consumers – without having to go to the surplus lines market – will allow the insurance industry to move quickly to adapt to emerging risks and unique insurance needs.

Phase Two

After a specified period of time, assess the impact of deregulating specialty commercial insurance products. The impact could be measured in any number of ways, for example:

- Determine if there has been any increase in complaints received by insurance departments from commercial lines policyholders with respect to the affected lines of business;
- Survey commercial consumer satisfaction pre- and post-Phase One (perhaps with the help of the RIMS, which is the largest organization representing the interests of commercial insurance customers);
• Assess whether there has been any increase/decrease in market participation by insurers, particularly with respect to the affected lines of business.

**Phase Three**

If the result of the Phase Two assessment is positive, proceed to phase in the deregulation of additional commercial lines of insurance. Set the schedule for additional lines of business/products, as well as the types of post-deregulation assessments to be performed, based on lessons learned during Phase One and Phase Two.
January 29, 2015

Ms. Kris DeFrain
NAIC
1100 Walnut Street, Suite 1500
Kansas City, MO 64106

RE: COMMERCIAL LINES INTERSTATE COMPACT SURVEY

Dear Ms. DeFrain:

As one of the 20 largest commercial lines insurance groups, The Company wishes to respond to the NAIC’s survey on the captioned subject. Thank you for the opportunity to provide input.

First, we are very appreciative and supportive of the NAIC’s efforts to modernize the regulatory system. This survey is just one example of NAIC’s efforts in this regard. We have chosen to submit comments, in lieu of merely responding to the questions posed in the survey, because of our perception of the complexity in achieving a P&C interstate compact. If the complexities can be successfully addressed and a compact could become practical for P&C insurance, yes, The Company would support legislative proposals. Yes, we would use the compact for filing rates and forms, and, while we would hope that the compact would be practical for all lines of business, we suspect that workers’ compensation and property are the lines that would most lend themselves for the use of an interstate compact.

The topic of interstate compacts for property/casualty products has been discussed at the NAIC in the past. We believe that the same complexities that led most to believe that the concept was not practical during prior discussion continue to exist today. Primarily, while we believe a compact could supersede individual states’ filing laws, we do not today see how it would address the issues that make so many P&C products unique by state.

As you are aware, a commercial P&C policy is a contract. Additionally, liability policies protect insureds, for the most part, against alleged torts. Both contract and tort laws are state-based allowing state legislatures to enact a wide variety of laws on the subjects, and state courts to apply contract and tort principles differently. In addition, states have enacted a wide variety of consumer protection measures affecting both liability and property insurance, and these measures may be difficult to supersede through compact legislation. We do not foresee a single state (or a subset of states) being familiar with the various statutes that must be considered in developing products for use in other jurisdictions. Moreover, property/casualty rates differ by state, unlike rates for other lines of insurance. We believe this level of complexity and variety contrasts significantly with life insurance products for which we understand compacts have been successfully implemented. To make a compact concept viable, a large majority of the states would have to participate. Reaching consensus among that many state regulators and legislators around a single set of policy provisions and rate levels seems to be an insurmountable task considering the nature of P&C insurance.
Again, while we support the concept of interstate compacts, we fail to see it as a practical solution to speed to market.

Perhaps a more practical concept is another one that has also been discussed at the NAIC, and deliberated in the states, in the past: minimizing the regulation of commercial products for the “sophisticated insured.” Several states did enact various forms of “commercial lines deregulation,” although admittedly not enough to have a significant effect on the market. We would be a strong advocate of the NAIC once again deliberating on an appropriate definition of a “sophisticated insured” and the level of flexibility that they should be afforded.

Thank you for the opportunity to comment. We would welcome the opportunity to work with the NAIC, and the individual states, to further modernize regulation of insurance.
Comments Submitted Regarding the Draft Recommendations
Sorry I did not submit these prior to today's call. I did not provide a suggestion on the interstate compact, but I hope my position was clear from my comments in today's call -- there is insufficient interest on the part of the industry to recommend a major time commitment by states / NAIC to investigate this. State / NAIC time is far better spent on the other recommendations in the paper that have a concrete benefit in a much shorter time frame and, if industry truly does have an interest, then industry should be taking the lead in developing a proposal for the NAIC to consider. I also do not think there is the same need for an interstate regulatory commission for commercial property casualty products as for life, annuities, disability and long term care products because the property casualty industry has a mechanism for developing national forms and products -- advisory organizations like ISO. There is no similar mechanism available for life insurers so the IIPRC fills a unique role that advisory organizations play, to some degree, for property casualty insurance.

Thanks,

Birny

COMMERCIAL LINES (EX) WORKING GROUP

DRAFT RECOMMENDATIONS

March 5, 2015

1. Products Inappropriately Treated As Commercial Lines Products

Definition of commercial lines

States should ensure that consumers are protected when individual consumers bear the cost of coverage pay the insurance premiums.

Consumer representatives have called the Working Group’s attention to products filed and regulated as a commercial lines product, but for which individual consumers bear the cost of coverage, lines of business in which the insured is, technically, a business, and yet individual consumers pay the insurance premiums. One example is lender-placed insurance (LPI). With LPI, the insurer sells a master policy to an auto lender or mortgage servicer and when coverage is force-placed on the borrower for failing to provide evidence of required insurance under the loan agreement, the lender or servicer assesses a charge for force-placed LPI. Unlike other forms of credit-related insurance, like credit life and credit disability insurance or mortgage guaranty insurance, which are explicitly treated not as a general commercial lines product, LPI is typically regulated as a commercial lines products. Other examples of credit-related insurance inappropriately treated as a commercial lines product include portable electronics insurance, re are other situations in which a large business negotiates rates and policy coverage for insurance products that are marketed (by that large business) to individual...
consumers. Examples include lender-placed homeowners and auto insurance, mortgage-guaranty insurance, and portable electronics insurance. In situations such as these, states should ensure that the regulation of rates and forms provides an appropriate level of protection for consumers. Such lines of business should not be regulated on the assumption that they are similar to other commercial lines and not regulated as commercial lines products.

The Working Group urges states to address this issue, but leaves it to each state to implement. Each state that implements this recommendation according to its own legal and regulatory framework. In some states this may require revisions to statutes and regulations. Other states may be able to implement this recommendation by issuing bulletins and changing review procedures and priorities.

[Rationale for Comments: With LPI, the lender/servicer pays the premium to the LPI insurer and is the policyholder of the Master LPI policy. The lender/servicer may, but is not required to, assess a charge on borrowers to recoup the premium paid by the lender/servicer. Consequently, the LPI charges a lender/servicer assesses to a borrower is not an insurance premium. State insurance regulators do not have authority over the relationship between a servicer and a borrower, which is why the Consumer Financial Protection Bureau promulgated rules for when and how a servicer may assess a LPI charge on borrowers.

Instead of framing the recommendation as a negative – the working group chose not to create a precise definition of commercial lines – it would be more effective to narrow the recommendation to the issue at hand, while leaving it up to states on how to implement.

2. Definition of exempt commercial policyholder

The NAIC should consider revising the definition of exempt commercial policyholder (“ECP”) to promote greater uniformity of definition and application across states.

Currently, based on the compendium recently updated by the Working Group, only 22 states have specific criteria in statutes or regulations exempting policies pertaining to large commercial risks from rate and/or form filing requirements. Several states have different definitions (thresholds) for filing rates and forms. Some provide exemptions for rate filings but still require the filing of forms. Other states apply identical criteria to rates and forms, respectively.

Very few states use the exact criteria outlined in the NAIC Property and Casualty Model Rate and Policy Form Law Guideline (GDL-1776) and the NAIC Property and Casualty Model Rate and Policy Form Regulation Guideline (GDL-1781), preferring instead to use thresholds much lower than those recommended in the guidelines. It is unclear if a lower NAIC ECP standard would encourage states to take action to achieve uniformity, but the issue warrants investigation.

In comments made to the Working Group insurance industry representatives have indicated that the states’ failure to adopt uniform
definitions of ECP is a significant problem. If given a choice, however, between lower thresholds and uniformity, the industry clearly appears to prefer the former, arguing that no state should increase its existing threshold definition of ECP to achieve uniformity.

The NAIC should consider studying states with existing ECP thresholds to identify best practices and determine whether the NAIC guidelines should be amended in order to encourage more states to introduce exemptions for commercial lines rates and forms. In particular, an industry suggestion that the threshold for form filing exemption should be higher than that for rate filing exemption merits consideration, as businesses may find it easier to understand a premium calculation than to understand the nuances and possible consequences of various policy form provisions.

3. **Manuscript policies**

   **States should consider allowing manuscript policies to be used without prior approval.**

   Manuscript policies are policies written on unique forms designed to cover only a single policyholder (in some states such policies may be used for up to three different policyholders). These policies are often written to cover large commercial risks with unique exposures. In many states, manuscript policies are not required to be filed or, if filed, are not subject to prior approval. Other states should consider whether one of these approaches would be appropriate, and if it is found to be appropriate, should implement that approach.

4. **Policies for multistate risks**

   **States should consider establishing conditions under which policies for multistate risks would be exempt from form and rate filing requirements.**

   On several occasions insurance industry representatives have expressed to the Working Group their concerns that state form and rate filing requirements, as they are applied to policies for multistate risks, can result in significant inefficiencies. When an insurer issues one policy to cover the risks or exposures in all states in which the insured has operations, the insurer may face several significant issues, including:

   - Multiple (and possibly conflicting) amendatory endorsements may be required by various states;
   - The regulatory framework (prior approval, file and use, use and file, etc.) may vary from state to state; and
   - Even though the policy has a single effective date, the timing of individual state approvals, if required, may vary.

   To address the issues related to policies for multistate risks, states should consider establishing conditions under which policies for multistate risks would be exempt from form and rate filing requirements. This exemption would recognize the precedence of transactions that occur
outside of a state where perhaps only a small part of the insured exposure is located. To prevent misuse of the exemption, states should consider all elements of the transaction. Specifically, the insured must not be headquartered in the state, and the entire transaction (negotiations, correspondence, policy deliverance, payment) must take place outside of the state. For example, an insurer issues one policy to an insured headquartered in state A with operations also in states B and C. The entire transaction takes place in state A, including policy negotiations, correspondence, policy deliverance, and payment of premium. Because no part of the transaction takes place in states B or C, the policy would be exempt from form and rate filing requirements in states B and C.

CEJ does not support this recommendation. ISO creates a policy form covering risks in multiple states, files the relevant forms in each state and includes state-specific endorsements as needed. multi-state policy. This proposal seems to invite regulatory arbitrage.

5. Review of existing authority

Each state should review its existing authority to improve the efficiency and effectiveness of rate and form review for commercial lines.

Many states have laws that allow the Commissioner (or Director or Superintendent) to modify or eliminate filing requirements for certain types of policies or certain lines of business. In some states the Commissioner can do this only by adopting rules. In other states the process may be less formal. Each state should review its existing statutory authority with respect to commercial lines rate and form filings, looking for changes that could be made to improve the efficiency and effectiveness of rate and form review for commercial lines.

6. Interstate compact [To be drafted after industry survey results are reviewed]
March 20, 2015

Mr. Lee Barclay  
Chair  
NAIC Commercial Lines (EX) Working Group  

Ms. Kris DeFrain  
Director  
Research and Actuarial Department  
National Association of Insurance Commissioners  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197  

Dear Chairman Barclay, Members of the Working Group and Ms. DeFrain:

At the outset, PCI wishes to express our appreciation for the transparent and inclusive way the Working Group has conducted this initiative. We continue to believe it is vitally important for regulated insurance companies and our regulators to find the most cost effective manner to conduct regulation so as to allow insurers to respond promptly and effectively to the coverage needs of American and international businesses. When we succeed in this way, financial security is best provided and we all win—business customers, claimants, regulators, commercial insurers and the general economy.

For these reasons, we support the latest version of the recommendations and hope they will advance. In particular, we advocate that regulators review the flexibility they have under applicable legislation so as to allow insurers the greatest opportunity to compete and respond to commercial customers’ needs, consistent with the law. We also hope that the group will continue to consider other ways to improve regulation.

We appreciate the approach the group has followed with regard to the possibility of using an interstate compact to streamline regulation. We were impressed with the interest shown in this concept, as indicated by the survey results. Therefore, we support the NAIC moving forward to study the compact, exchanging information with interested parties on how an interstate compact might work for commercial property and casualty insurance, and otherwise exploring the topic. This should not, however, supplant work on other ideas to improve commercial lines regulation.

Finally, we hope this group and the NAIC will continue to serve as a forum for the states to discuss best practices in commercial lines regulation and will work on further ways to improve regulation. Already, we believe the dialogue has been helpful to all parties.

Sincerely,

David F. Snyder,  
Vice President