NAIC/INDUSTRY LIAISON COMMITTEE

NAIC/Industry Liaison Committee Nov. 18, 2014, Minutes
The NAIC/Industry Liaison Committee met in Washington, DC, Nov. 18, 2014. The following Committee members participated: John M. Huff, Vice Chair (MO); Dave Jones represented by Joel Laucher (CA); Karen Weldin Stewart represented by Tanya Sherman (DE); Sharon P. Clark (KY); James J. Donelon (LA); Monica J. Lindeen (MT); Bruce R. Range represented by Peg Jasa (NE); John D. Doak represented by James Mills (OK); Todd E. Kiser (UT); Ted Nickel represented by Mollie Zito (WI); and Michael D. Riley (WV). Also participating was: Joseph Torti III (RI).

1. **Adopted its Summer National Meeting Minutes**

Commissioner Donelon made a motion, seconded by Commissioner Lindeen, to adopt the Committee’s Aug. 17 minutes (see NAIC Proceedings – Summer 2014, NAIC/Industry Liaison Committee). The motion was unanimously adopted.

2. **Discussed New IRS Rules Regarding the Tax Treatment of Longevity Annuities Within 401(k) Plans**

Jason Berkowitz (Insured Retirement Institute—IRI) provided an overview of new IRS rules regarding the tax treatment of longevity annuities within 401(k) plans. Mr. Berkowitz summarized the longevity annuity rulings released by the U.S. Department of the Treasury, their relevancy to the NAIC and its membership, the urgent need for longevity plans to accommodate the baby boomer generation, and the restrictions to guarantee lifetime income plans that companies are facing. Director Huff raised a question regarding any potential education for consumers on the suitability of the plans, to which Mr. Berkowitz responded that consumer-facing pieces are tools to be used with clients.

3. **Discussed International Issues**

Philip Carson (American Insurance Association—AIA) noted, regarding international capital standards (ICS), that the NAIC’s ComFrame Development and Analysis (G) Working Group’s concept paper was very much welcomed by the AIA, noting that the Working Group should continue to highlight the most important issues on the matter. He also spoke on the continuation and importance of industry involvement throughout discussions on the ICS, and stressed for more clarity on how the International Association of Insurance Supervisors (IAIS) is responding to the feedback from the NAIC on the topic.

Robert Neill (American Council of Life Insurers—ACLI) discussed the ACLI’s appreciation of the NAIC’s work on group solvency matters, and highlighted the ACLI’s support of supervisory colleges as the most appropriate forms of regulation in the U.S. He expressed satisfaction with the ACLI’s comments and proposed changes being incorporated into the NAIC’s latest draft of the Insurance Holding Company System Regulatory Act (#440), and stated that the ACLI remains willing to work together with the Financial Regulation Standards and Accreditation (F) Committee on this issue. Lastly, Mr. Neill focused on four areas of suggested improvement as the NAIC moves forward on group supervision: purpose; scope; governance; and authority.

Dennis Burke (Reinsurance Association of America—RAA) spoke on a potential covered agreement on reinsurance collateral. Mr. Burke stressed that the topic be viewed with optimism rather than skepticism, noting that a covered agreement is important to the competitiveness of U.S. industry globally once Solvency II standards go into effect within the next year. He said that a covered agreement is a great way for the NAIC to have the federal government and the European Union recognize the importance of U.S. state-based insurance regulation.

David Snyder (Property Casualty Insurers Association of America—PCI) gave an overview of a new study about the economic costs of an international capital standard, which was published by Robert J. Shapiro, who is an academic scholar and economic political advisor. Mr. Snyder noted that the findings of the study concluded that higher capital is not needed for solvency purposes and that a global capital standard could result in increased costs for consumers, as well as reduced premium volume and loss of coverage.

Michelle Rogers (National Association of Mutual Insurance Companies—NAMIC) discussed transparency and closed meetings at the IAIS, a new development that the NAIC vigorously opposed at the recent IAIS Annual Conference. She noted that the industry and the NAIC welcomed a change in limitations to those who can and cannot receive “observer
status,” but explained how it was undermined by the subsequent decision to close all meetings to stakeholder participation. She said the IAIS has responded insufficiently to the shared concerns of the NAIC and the industry. Ms. Rogers explained that without full participation of the IAIS stakeholders, there will be an inability to work with all global counterparts and actors.

Director Huff noted that it is crucial to make sure consultation changes sent on behalf of the U.S. delegation addresses the wide-ranging types of insurers and reinsurers.

Commissioner Lindeen reiterated the NAIC’s commitment to guaranteeing coordination and cooperation amongst all U.S. counterparts in continuing to push for transparency at the IAIS.

Commissioner Donelon echoed the comments shared by Director Huff and Commissioner Lindeen, adding that the industry representatives also should share today’s comments, messages, studies, etc., with the Treasury Department and the Federal Insurance Office (FIO).

Commissioner Clark asked for tips and suggestions on how the NAIC can be more open to the industry, to which Mr. Burke responded that the speed in which things have been decided at the IAIS means that the NAIC should be encouraged to expedite its comments and papers on related matters so that industry can stay informed.

Ms. Rogers added that it is important to include the voices of smaller companies when discussing international insurance standards. She also suggested state regulators make it clear to international authorities that they will come back and share information with industry participants, as it would send a very strong message.

Mr. Carson said that the NAIC should provide information on emerging issues before the intended dates that the IAIS proposes.

Mr. Snyder said that the U.S. voice in international circles is basically neutralized due to the inability of federal representatives to side with state regulators. He said the problem with the “Team USA” approach is that it does not work when players are taking the ball in opposite directions, which has been the case too often, and is not consistent with the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. He said if necessary, Dodd-Frank should be amended to reflect the fact that it is the state regulators who are responsible and accountable and are governed by the rule of law to determine what the rules of play are, and federal agencies work with the NAIC and state regulators to advocate those rules in international circles. He further said we do not have that team approach today, and the fault does not lie with the NAIC or state regulators.

Ethan Sonnichsen (NAIC) asked the panel about Roy Woodall’s observer status at the IAIS following a comment made at a congressional hearing on international insurance issues.

Mr. Snyder said he was under the impression Mr. Woodall had attempted to join IAIS but was been blocked by the Treasury Department. He said the new approach of the IAIS is fundamentally flawed because it increases the likelihood of ineffective standards and decreases the likelihood of those standards being implemented because parties that were not included and would otherwise be advocates will instead be opponents. He said the IAIS is acting against its own best interests; the NAIC’s transparency improves the quality of the marketplace and financial solvency, and ought to indicate to the IAIS that the way to go is transparency.

Director Huff clarified that the question at hand is whether there is a difference in the meaning of IAIS observer status after Jan. 1, 2015.

Ms. Rogers said that observer status will be eliminated, and interested parties will now be referred to as stakeholders, a new defined term, which will not be equivalent in access.

Mr. Snyder said that the meetings previously open to observers will now be closed.

Ms. Rogers indicated that under the new proposal, the only access will be through written comments.

Director Huff asked for the RAA’s view on the 2014 FIO Annual Report citing lack of uniformity in state implementation of the Credit for Reinsurance Model Law (#785) as a reason for the Treasury Department to support a covered agreement.
Mr. Burke responded that for the most part, the laws being adopted are generally consistent with the NAIC model. He said that notwithstanding the number of states and percentage of premium, the RAA still has concerns because under the current language in reinsurance contracts, if any one of their regulators says they need collateral, it applies to that reinsurance agreement. He said that in order to actually achieve credit for reinsurance reforms for many insurance groups, uniformity is needed. He said that as a result of the state-based system, RAA members have to form many subsidiaries, which are frequently wrapped up into the reinsurance agreements and create effectiveness problems.

Commissioner Donelon asked if reinsurance sold in any U.S. jurisdiction that does not have the reformed collateral requirement is at 100% collateral.

Mr. Burke said it is potentially that way; the language in standard reinsurance contracts requiring collateral is still out there.

4. Discussed Other Matters

Bradley Kading (Association of Bermuda Insurers and Reinsurers—ABIR) discussed the Credit for Reinsurance Model Law (#785). Mr. Kading provided a rough estimate of the number states and jurisdictions that have fully enacted the model, noting that the limited number over the past four years is not substantial enough to warrant its continuation over time. Addressing Director Huff’s inquiry into the problem of “bottlenecking” at the application stage, Mr. Kading responded by noting that passporting remains slow, among other issues, and from a non-U.S. reinsurance perspective, it is an overall slow process. Director Huff said that the overall memorandum of understanding (MOU) process is what causes delays, and that the amount of resources the IAIS is giving on the matter is insufficient for states to implement in a timely manner.

Having no further business, the NAIC/Industry Liaison Committee adjourned.

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