The NAIC/State Government Liaison Committee met in Washington, DC, Nov. 16, 2014. The following Committee members participated: Adam Hamm, Chair (ND); Monica J. Lindeen, Vice Chair (MT); Jim L. Ridling represented by Reyn Norman (AL); Jay Bradford represented by Bill Lacy (AR); Dave Jones represented by Robert Herrell (CA); Karen Weldon Stewart represented by Gene Reed (DE); Sandy Praeger (KS); Sharon P. Clark (KY); Joseph G. Murphy (MA); Roger A. Sevigny (NH); John G. Franchini (NM); Scott J. Kipper (NV); Mary Taylor represented by Michael Farley (OH); John D. Doak, Buddy Combs and James Mills (OK); Joseph Torti III (RI); Julie Mix McPeak (TN); Todd E. Kiser (UT); and Ted Nickel represented by J.P. Wieske (WI). Also participating were: Lori K. Wing-Heier (AK); Germaine L. Marks (AZ); Marguerite Salazar (CO); Doug Walker (IN); Therese M. Goldsmith (MD); John M. Huff (MO); and Michael F. Consedine (PA).

The following state legislators and staff were present: Rep. Kurt Olson (AK); Lesli Sorensen (AZ); Sen. Harris B. McDowell III (DE); Rep. Bryon Short (DE); Sen. Dorsey Ridley (KY); Sen. Travis Holdman (IN); Rep. Vincent Pierre (LA); Rep. Don Gosen (MO); Rep. Joe Atkins (MN); Sen. Benny Shendo, Jr. (NM); Rep. George Keiser (ND); Sen. David O’Connell (ND); Rep. Robert Hackett (OH); Rep. Tina Pickett (PA); Sen. Roger Picard (RI); Rep. Brian Kennedy (RI); Jamey Goldin (SC); Steven Gilbert (SC); Rep. James A. Dunnigan (UT); and Sen. Annette Cleveland (WA).

1. **Discussed Amendments to Model #785**

   Director Huff led a discussion on amendments to the Credit for Reinsurance Model Law (#785). He explained that the revisions allow for various reductions in the 100% collateral requirement based on qualification as a certified reinsurer. Adopted revisions have been enacted in 23 states so far, and five additional states will be considering similar proposals by the end of 2015. Director Huff made it clear that this is only an accreditation model if the states decide to reduce collateral for foreign reinsurers. He urged state legislators that have not begun discussions on the matter to put the issue on their state legislative agendas for the upcoming year. He noted that there is a possibility of the federal government preempting the state governments on the matter through the federal Dodd-Frank Wall Street Reform and Consumer Protection Act provisions in order to proceed with a covered agreement.

   Rep. Keiser inquired whether there is a difference between rules and guidelines imposed on domestic and foreign insurers in doing business in the states. Director Huff responded by saying that U.S. reinsurers would not be required to post collateral, and, historically, it is the foreign reinsurers who reinsure the domestic insurers that have been required to post such collateral. There is a program in place in certain areas that test a passporting system so that domestic reinsurers authorized in one state can then gain access to others.

2. **Discussed Principle-Based Reserving**

   Commissioner McPeak led a discussion on of principle-based reserving (PBR) and insurers’ use of captives. She began by reviewing the NAIC’s 2009 development of a new method for calculating life insurance policy reserves to more easily adapt reserve requirements for changing products. PBR would replace the more formulaic approach with one that more closely reflects the risks of today’s highly complicated products. It includes two law changes and a new *Valuation Manual*. To date, 18 states have enacted legislation to adopt PBR, and, in 2015 the NAIC sees the potential for a number of additional states adopting PBR. Commissioner McPeak noted that the NAIC is currently developing a regulatory review system and has hired a team of three life actuaries to help build the actuarial review process for PBR and determine what systems can be built to aid the states and legislators in the adoption process. The NAIC is working with the American Council of Life Insurers (ACLI) and the Life Actuarial (A) Task Force to offer a plan to provide small company risk-sensitive exemptions.
Draft Pending Adoption

Commissioner McPeak explained in detail the recommendations to regulatory change regarding XXX\(^1\) and AXXX\(^2\) captives, as well as special purpose vehicles.

Rep. Keiser asked whether the exemption will have a provision that will prevent small companies form utilizing captives as a benefit that would, in turn, create an unlevel playing field. Commissioner McPeak clarified the issue by stating that it is applicable to all companies, regardless of size.

3. **Discussed Model #440 and Model #450**

Superintendent Torti led a discussion of group supervision, including the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation* (#450). He outlined that, as the result of the NAIC Solvency Modernization Initiative, U.S. insurance regulators recognized that improvements could be made in the area of group supervision, starting with potential changes to the existing Model #440. These changes were adopted by the NAIC membership in 2010 and, currently, 24 states have enacted amendments to their holding company statutes. In September 2012, the NAIC membership adopted the *Risk Management and Own Risk and Solvency Assessment Model Act* (#505), which is intended to provide regulators with the authority to collect annual reports on the risk management and capital requirements of large and medium-size groups. To date, 20 states have enacted Model #505. In December 2010, the NAIC membership adopted changes to Model #440 and Model #450, which made several enhancements to the legal structure under which holding companies are supervised. So far, 38 states have enacted Model #440. Superintendent Torti then described the adoption of a model law by the Executive (EX) Committee at the Spring National Meeting that authorized the Group Solvency Issues (E) Working Group to begin considering additional changes to Model #440.

4. **Discussed International Issues**

Commissioner Consedine gave an update on international issues. After emphasizing the complexity of global insurance, Commissioner Consedine discussed the topics of financial stability and systemic risk. The Financial Stability Board (FSB) identified nine insurers, including three U.S.-based insurance groups, as being globally systemically important insurers (G-SIIs), and, just a few weeks ago, the FSB reaffirmed those designations for 2014. It is important to note these designations are advisory only and, therefore, are non-binding. Alternatively, the Financial Stability Oversight Council (FSOC) is authorized by the U.S. Congress to address systemic risk and has its own process for evaluating and designating systemically important financial institutions (SIFIs). Commissioner Consedine said the FSOC has designated two insurers (AIG and Prudential) as systemically important, and he said it is his understanding that another insurer (MetLife) is appealing a proposed SIFI designation. Next, he discussed the topic of global capital standards for insurers. As part of the policy measures recommended for application to G-SIIs, the International Association of Insurance Supervisors (IAIS) has moved rapidly, under specific direction and pressure from the FSB, to develop international standards for a basic capital requirement (BCR). The goal is to require these companies, be they internationally active insurance groups or the designated companies, to hold additional capital above and beyond the legal entity level of current. Regarding the significant challenges of this work, the NAIC has remained engaged, even with the ambitious timeline put forth by the IAIS.

Commissioner Consedine then discussed the IAIS’ development of the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). At the IAIS, the focus of the NAIC’s efforts at every step has been to emphasize cooperation in supervisory practices while avoiding overly prescriptive measures, extra layers of unnecessary regulation or new “one-size-fits-all” requirements for insurers that operate globally. Commissioner Consedine then discussed the U.S.-European Union (EU) Dialogue Project, stating that the goal is to gain a deeper understanding of the different approaches to solvency oversight and explore ways to increase cooperation and collaboration where possible. In July 2014, the U.S.-EU Dialogue Project Steering Committee released an update of its joint “The Way Forward” plan, based on recent developments and progress achieved to advance mutual understanding and recognition. Another forum on group supervision was held in October 2014 in conjunction with the IAIS Annual General Meeting in Amsterdam, Netherlands.

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1 Used to describe the actuarial reserves required to be held under the *Valuation of Life Insurance Policies Model Regulation* (#830), which is commonly referred to as Regulation XXX (or, more simply, XXX).

2 Used to describe the actuarial reserves required to be held under *Actuarial Guideline XXXVIII—The Application of the Valuation of Life Insurance Policies Model Regulation* (AG 38), which is commonly referred to as AXXX.
Commissioner Hamm asked which of the topics is to be the most pertinent international issue of the moment. Commissioner Consedine responded that the work the NAIC and the National Conference of Insurance Legislators (NCOIL) have been doing on the topic of capital standards remains the most important issue. He said the challenge is to not get lost in the technical aspects of the capital standards.

Rep. Keiser noted that NCOIL has created a task force on such issues and it is moving forward in developing an educational resource for state legislatures.

5. Discussed Cyber Risk

Commissioner Goldsmith led the discussion on cyber risk. She explained that insurance regulators look at this issue from three different, but connected, perspectives: 1) regulating and protecting insurance companies who hold sensitive customer data; 2) regulating and monitoring the solvency of the insurance companies that write cyber liability policies, an estimated $2 billion market that is growing quickly; and 3) protecting the data housed within insurance departments and the NAIC. Following a discussion of the consequences of cyber-attacks, Commissioner Goldsmith noted that U.S. insurance regulators and the NAIC participate in the Financial and Banking Information Infrastructure Committee (FBIIC). The FBIIC is chartered under the President’s Working Group on Financial Markets, and is charged with improving coordination and communication among financial regulators, enhancing the resiliency of the financial sector and promoting the public/private partnership. U.S. insurance regulators and the NAIC also participate in the Cybersecurity Forum for Independent and Executive Branch Agencies, chaired by the U.S. Nuclear Regulatory Commission, and provided input to the National Institute of Standards and Technology (NIST) as it was developing its voluntary cybersecurity framework document.

Commissioner Consedine asked a question about a recent bulletin on price optimization and the connection between cybersecurity and the increasing usage by insurers of all types of data, and how that data is being used. Commissioner Goldsmith added that the bulletin on price optimization under the state of Maryland is about unfairly discriminatory rating practices involving the use of “big data.” Other matters brought up had to do with the retaining of Social Security identification numbers by insurers.

6. Adopted its Summer National Meeting Minutes

Commissioner Lindeen made a motion, seconded by Commissioner Clark, to adopt the Committee’s Aug. 16 minutes (see NAIC Proceedings – Summer 2014, NAIC/State Government Liaison Committee). The motion passed unanimously.

7. Discussed Other Matters

Rep. Kennedy commended Commissioner Praeger on her work with the NAIC and in the state insurance industry as she nears retirement at the end of the year.

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