Emerging Regulatory Issues in 2015

By Monica Lindeen, NAIC President and Montana Commissioner of Securities and Insurance

◆ Introduction

As I assume the Office of President of the NAIC, I am both humbled and challenged when I consider the wide range of issues state insurance regulators are facing. I first want to thank my regulatory colleagues for having faith in me to lead the organization this year. I will not let you down.

I believe it was Benjamin Franklin who said, "If you fail to plan, you are planning to fail." This quote is just as true today as it was in Colonial times. Heeding Mr. Franklin's advice, the nation's insurance commissioners gather early each year to plan how to address the daunting challenges before us. I want to take this opportunity to share with you some of my thoughts on the key issues we will be facing together in 2015 and perhaps shed some light on recent accomplishments and what lies ahead.

There are several issues I want to mention in this article. I will add a word of caution for issues not included. Lack of mention does not mean an issue is unimportant. Rather, the issues in this article seem to be ones where extra emphasis is warranted because of their timely nature and political forces around us. I plan to cover cybersecurity concerns; progress on implementation of Principle-Based Reserving (PBR) standards; progress on use of captives for life insurance reserves; continued progress on implementation of the Affordable Care Act (ACA); issues facing regulators related to the recent passage of the National Association of Registered Agents and Brokers Reform Act (or NARAB II); and our relations with international regulators.

◆ Cybersecurity

Hardly a day goes by without hearing about another cybersecurity breech. Some hacker will obtain confidential personal or financial information from a business who left a crack in their cyber-armor. If a company owns a computer, they are at risk. These data breeches can be very expensive for the businesses. Every business is at risk and digital attack incidents have become more common, sophisticated and costly. Cyber risk is now widely acknowledged to be a significant emerging threat to businesses—it is no longer an information technology problem, but a CEO problem.

For insurers the risk is compounded as, in addition to managing their own cyber risks, some insurers accept cyber risk transfers and offer other cyber risk management services to American businesses. There are a number of possible exposures for businesses to address and insurers to cover. A short list includes:

- Identity theft;
- Business interruption;
- Reputational risk;
- Costs associated with data restoration or repair costs;
- Theft of customer lists or trade secrets;
- Hardware and software repair costs;
- Costs of credit monitoring services for impacted consumers; and
- Litigation costs.

Most general liability policies do not cover cyber-risks, and cyber insurance policies are highly customized for each client in a new and rapidly evolving market that is estimated to reach $2 billion this year.

The federal government has stepped up its scrutiny of cybersecurity. This has led to increasing calls for legislation and regulation for enhanced cybersecurity measures to address the numerous risks posed by a cyber-attack. Effective laws and regulations are important tools to protect the security and economic vitality of our nation.

In 2013, President Obama issued Executive Order 13636, "Improving Critical Infrastructure Cybersecurity," tasking the National Institute of Standards and Technology (NIST) with developing best practices for managing cyber risks. In February 2014, the NIST released a new framework for improving critical infrastructure cybersecurity. The framework provides a structure of standards, guidelines and practices to aid organizations, regulators and customers with critical infrastructures in effectively managing their cyber risks. The previously released Executive Order pushes federal agencies to assess whether and how existing cybersecurity regulation could be streamlined and better aligned with the NIST Cybersecurity Framework.

With the continued emergence of this area, I thought it expeditious to appoint a single task force to serve as the coordinating body for the NAIC cybersecurity effort. I have asked Commissioner Adam Hamm (ND) to lead the Cybersecurity (EX) Task Force with the able assistance of Director Ray Farmer (SC) as his vice chair. The NAIC Executive Committee has adopted some rather broad charges for the group. The Committee asked the Task Force to:

- Monitor cybersecurity developments;
- Keep the Executive Committee informed on cybersecurity issues and make recommendations as may be appropriate;
- Coordinate activities with NAIC standing committees regarding cybersecurity issues;
- Represent the NAIC and communicate with other enti-

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ties/groups, including the sharing of information as may be appropriate, on cybersecurity issues; and
- Perform such other tasks as may be assigned by the Executive Committee relating to the area of cybersecurity.

Among the several tasks the Task Force expects to complete in 2015 are:
- Drafting of guiding principles for regulation of cybersecurity;
- Gathering information about state and NAIC best practices in cyber risk management;
- Recommending updates to the *Financial Condition Examiners Handbook* and the *Market Regulation Handbook* to implement best practices in cybersecurity oversight;
- Developing a supplement to the Annual Statement to collect information about cyber insurance markets. I expect we will collect information about the number and types of policies written, the associated premium and loss information and market trends. The goal is to get a handle on which insurers are writing cybersecurity business and evaluate whether this business presents any solvency risks to the insurers;
- Drafting a Consumer Bill of Rights to allow consumer to take steps to monitor their financial information and do what they can to prevent or identify on a timely basis when their financial or health information has been compromised. The insurer has an obligation to let people know as soon as possible that their information is at risk. The proposed Consumer Bill of Rights would contain the information about what the insurer intends to do to assist cyber victims and explain the consumer's rights; and
- Working collaboratively with other state and federal regulatory counterparts to share information and best practices with respect to cybersecurity.

An important role Commissioner Hamm will serve is being the face of insurance regulation with our federal counterparts. There are two groups where there is much interface. The first is 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. Treasury's Assistant Secretary for Financial Institutions chairs the committee. The NAIC has long been a member of this group. It works with cyber risks and natural disasters.

The Cybersecurity Forum for Independent and Executive Branch Regulators (known as the Forum) is another organization of state and federal regulators. The Forum membership is much broader than the FBIIC. It is led by the Nuclear Regulatory Commission and includes a number of state and federal agencies including the Coast Guard, the U.S. Department of Health and Human Services (HHS), Homeland Security, Transportation, the Treasury, the Federal Aviation Administration, the U.S. Securities and Exchange Commission and many others. The purpose of the voluntary Forum is to increase the overall effectiveness and consistency of regulatory authorities' cybersecurity efforts pertaining to U.S. critical infrastructure. The Forum is essentially a communication and information sharing body.

Another group conducting important cybersecurity work is the Financial Services Information Sharing and Analysis Center or FS-ISAC. The FS-ISAC is a global financial industry resource for cyber and physical threat intelligence analysis and sharing. The FS-ISAC was created by and for its members and operates as a member-owned non-profit entity. It was launched in 1999 by the financial services sector in response to a Presidential Directive mandating the public and private sectors share information about physical and cyber security threats and vulnerabilities to help protect the U.S. critical infrastructure. The FS-ISAC has developed a Critical Infrastructure Notification System allowing the FS-ISAC to send security alerts to multiple recipients around the globe near-simultaneously while providing for user authentication and delivery confirmation. Joining the FS-ISAC is one of the best ways financial services firms can do their part to protect the industry and its vital role in critical infrastructure. I believe it is important for all insurers to participate in FS-ISAC.

◆ PRINCIPLE-BASED RESERVING

Insurance regulators have long been discussing the possibility of modernizing the approach to how best to account for life insurance reserves. The current method relies on a proscriptive formulaic approach many consider to be less than optimal for a number of reasons. The primary reason is the approach does not recognize specific company coverage and underwriting nuances and, therefore, is either overstating or understating necessary reserves to support the policies being written.

The Principle-Based Reserves Implementation (EX) Task Force (PBR Task Force) serves as the coordinating body for all projects related to the Principle-Based Reserves initiative for life and health policies. In 2013, the PBR Task Force adopted the Principle-Based Reserving (PBR) Implementation Plan. The Plan is currently being updated and will be discussed at the upcoming NAIC 2015 Spring National Meeting. The implementation plan provides a framework for implementation and is a working document to be modified as necessary to meet the challenges ahead.

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State Legislatures are considering whether to adopt two NAIC model laws implementing the legal framework needed to make PBR a reality. The two models are the *Standard Valuation Law* (#820) and the *Standard Nonforfeiture Law for Life Insurance* (#808). For PBR to become effective the two models need to be adopted by 42 states representing at least 75% of applicable premium. To date, 20 states have adopted the revised model laws.

There are two main issues the PBR Task Force will be addressing in the near future. One pressing issue is to define what the term "substantially similar" means when it comes to the model laws adopted by the legislatures. Some legislatures have deviated from the model language by adopting small insurer exemptions and imposing PBR standards retroactively.

A second issue is whether a "small company exemption" should be implemented and, if so, the scope of the exemption. Should they be exempt from application of the Valuation Manual or exempt from having to perform other exemption tests? At present, numerous exemptions are already adopted in the Valuation Manual to exclude products with lower risk. However, small insurers are encouraging legislatures to implement premium-based exemptions into the Standard Valuation Law.

The PBR Task Force is currently considering a proposal to exempt some insurers from having to perform exemption tests when the insurer's premium size is below a yet-to-be specified limit. The current proposal would exempt companies with the lower premium, but with caveats about risk. For example, the risk-based capital (RBC) score must be greater than 450%.

Regulators recognize a different skill set is needed for evaluation of the reserves set by insurers under a PBR framework. They also recognize the information needed by regulators to evaluate insurer reserves must be enhanced. Working toward the issue of skills, the PBR Review (EX) Working Group is coordinating the development of financial analysis, examination and actuarial review procedures and evaluating insurance department and NAIC actuarial staff resource requirements. It is likely the states and the NAIC will need to add highly-skilled staff to be prepared to evaluate insurer reserves in the future.

It is anticipated changes will be needed to the Life Annual Statement. The PBR Blanks (EX) Subgroup has created a set of proposed Annual Statement PBR blanks changes and a VM-20 PBR Reserve Supplement. There is a data collection template for reporting of insurer modeling and modeling assumptions. NAIC staff has begun the process of researching the costs of purchasing modeling software to be used by NAIC staff in assisting states with examinations of insurer PBR reserve calculations.

Implementation of PBR will require insurance regulators to work collaboratively to oversee insurers. Peer and quality reviews of PBR will be conducted by a new Valuation Analysis (E) Working Group (VAWG). The VAWG will operate in a manner similar to the Financial Analysis (E) Working Group, working collaboratively with other state insurance regulators, responding to issues and questions, and recommending PBR requirements and interpretations. Charges and operating procedures for the VAWG have been developed and exposed for regulatory comment. Comments have been received and are being compiled for discussion on a conference call.

Policy-level data reporting to a statistical agent is required in Model #820. The PBR Task Force is currently discussing the creation of a Company Experience Reporting Framework. The first draft of the Company Experience Reporting Framework includes the selection of a statistical agent by an NAIC committee; three to five states contracting with that statistical agent; housing of experience data and industry tables at the NAIC to facilitate sharing with the states; creation of confidentiality agreements with the NAIC as needed; and consideration of all life insurers sharing in the data-reporting expense.

Education and training for state insurance regulators is currently being developed. Last year, an introductory PBR webinar was conducted and is available on demand through the NAIC Education and Training Department.[1] Another webinar will be conducted this year regarding the new Actuarial Guideline XLVIII (AG48) and use of PBR calculations to determine the level of primary securities for a company. A PBR-related company survey is also being conducted to bring awareness to PBR and gather information about companies' preparedness and expected impact of PBR.

I am hopeful regulators and insurers will reach common ground on many of these implementation matters in 2015. The interests of consumers are well served when a financially sound insurance industry deploys its capital in an efficient, yet conservative manner. I believe we will have the necessary building blocks in place to accomplish the task.

◆ CAPTIVES

Another issue related to the life insurance industry is what many believe is a work-around to avoid the application of very conservative statutory accounting provisions to reserves for certain products. The use by life insurers to fi-

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1 http://www.cvent.com/events/edu-350-179-principle-based-reserving-valuation-for-life-products/event-summary-6f16036062244a4293d66940dbb5814c.aspx

nance XXX[2] and AXXX[3] reserves has been a significant and contentious issue in recent years. Life insurers have increasingly turned to captives to "finance" purported reserve redundancies associated with requirements under Regulation XXX and AXXX. The generally agreed-upon solution to this issue is to move from a rule-based approach to a principle-based approach. The implementation of principle-based reserving (PBR) should curtail the need for life insurers to create new captives and special purpose vehicles (SPVs) to address these perceived reserving redundancies.

More recently, insurers are requesting, and regulators are granting, transactions allowing insurers to receive permitted accounting practices without having to disclose the impact. This is achieved by ceding to a captive because captives are subject to different state laws and are currently exempted from the NAIC Accreditation program.[4] Thus, each captive reinsurance agreement can receive different accounting treatment, and the results are not always disclosed in public statutory financial statements since captive financial statements are usually confidential. The result of this accounting and regulatory arbitrage is to complicate state insurance regulators' ability to efficiently and effectively regulate insurers and the broader insurance market.

It is for these very reasons the NAIC did an extensive study on the impacts of captive reinsurance transactions and issued the *Captives and Special Purpose Vehicles White Paper* in 2012. The results of the White Paper identified XXX/AXXX captive reinsurance transactions as the first item to address. A XXX/AXXX Reinsurance Framework was adopted in concept by the NAIC in August 2014, and several of the conceptual components have been constructed and implemented.

Moreover, as you may be aware there has been some media coverage highlighting concerns with captive reinsurance. In addition, the 2014 Financial Stability Oversight Council (FSOC) Annual Report identified variable annuity and long-term care captive transactions as areas of particular concern in addition to XXX/AXXX transactions. In response, the Financial Regulation Standards and Accreditation (F) Committee is considering a change to the existing captive exclusion from the Accreditation program. This consideration is currently focused on captive reinsurance transactions for XXX/AXXX, variable annuity and long-term care business.

The NAIC has used Rector & Associates, Inc. (Rector) to help identify and mediate solutions regarding XXX and AXXX captives and SPVs and to make recommendations regarding the potential regulatory treatment of these transactions. Rector's proposed XXX/AXXX Reinsurance Framework, which was adopted in concept by PBR Task Force and then the Executive (EX) Committee at the 2014 Summer National Meeting, focuses on the ceding insurer's ability to take credit for reinsurance. The ceding insurer will be allowed to take credit for reinsurance for the XXX/AXXX reinsurance transaction with a captive if:

- The ceding insurer establishes the formulaic reserve in full;
- The ceding insurer satisfies the Primary Security Requirement—receives high quality assets as collateral in the amount calculated using the PBR-like Actuarial Method;
- Portions of the full formulaic reserve exceeding the Primary Security Requirement may be collateralized by Other Security as defined;
- At least one party to the financing transaction holds an appropriate RBC "cushion" (as yet to be determined); and
- The reinsurance arrangement is approved by the ceding insurer's domestic regulator.

The credit for reinsurance can only be modified through changes to the Credit for Reinsurance Model Law, and is thus, a longer-term solution. In the meantime, the proposal includes a short-term solution to use Actuarial Guideline XLVIII (AG48). AG48 was adopted with an effective date of January 15, 2015 and is included in the NAIC *Accounting Practices and Procedures Manual*. In adopting AG48, the NAIC established national standards regarding XXX/AXXX captive reinsurance transactions. This guidance includes regulation of the types of assets backing an insurer's statutory reserve. AG48 takes effect in 2015.

I am confident regulators can work through their differences to implement a solution fair to all. It is important to reach an equitable solution for consumers, competing insurers and regulators to have confidence the system is fair to all. As PBR is implemented, these differences should go away. In the meantime, the interim solutions are necessary for a level playing field to be restored. As Rhode Island Superintendent Joe Torti said at a recent conference, our reputations are on the line. Regulators need to stop approving

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[2] 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).

[3] Used to describe the actuarial reserves required to be held under the Actuarial Guideline XXXVIII—The Application of the Valuation of Life Insurance Policies Model Regulation (AG 38), which is commonly referred to as AXXX.

[4] Statutory Accounting presented in the NAIC Accounting *Practices and Procedures Manual* (AP&P Manual) is the baseline accounting requirement for insurers and provides for consistent financial statements and allows comparability of company results, an important issue for the analysis and examination work performed by state insurance regulators. Requiring insurers to utilize the AP&P Manual is an Accreditation requirement.

transactions that circumvent NAIC standards which we all agreed upon. To do otherwise jeopardizes our credibility and reputation.

◆ AFFORDABLE CARE ACT IMPLEMENTATION

It seems long ago when the federal Patient Protection and Affordable Care Act (PPACA) along with the Health Care and Education Reconciliation Act of 2010 (jointly referred to as the Affordable Care Act—ACA) was enacted thus making significant changes to the U.S. health insurance system. Yet the calendar says it was only five years. While much progress has been accomplished on the implementation of the ACA since the law was enacted, there is still a lot of work left. There are numerous NAIC committees, working groups and subgroups— 15 in all— currently addressing the critical responsibilities the law specifically assigned to the NAIC, such as development of the medical loss ratio (MLR) formula, consumer information and a consultative role on market reforms, health insurance exchanges, risk- sharing mechanisms and rate review standards.

Last year, the NAIC membership met with President Obama, along with then-Health and Human Services Secretary Kathleen Sebelius, the Centers for Medicare and Medicaid Services (CMS) Administrator Marilyn Tavenner and other high-level federal officials at the White House. The meeting was an opportunity to advance our dialogue with the Administration on a number of critical issues including network adequacy, essential health benefits for 2016 and effective oversight of the activities of navigators and assisters. State regulators are committed to coordinating with the CMS and the Center for Consumer Information and Insurance Oversight (CCIIO) to ensure health reform implementation grants the states necessary flexibility to protect consumers and safeguard stable and competitive insurance markets.

This year, under the able leadership of New Hampshire Insurance Commissioner Roger Sevigny, the Health Insurance and Managed Care (B) Committee will be working of a number of topics, including: updates to Frequently Asked Questions (FAQs) and changes to the Summary of Benefits and Coverage and the Glossary; a white paper addressing the potential issues related to self-insurance using stop-loss coverage; another white paper on the oversight of navigators, producers and assisters; work on rate and affordability and disclosure issues in the long-term care insurance market; and modifications to SERFF to improve usability for issuers uploading templates and a report to assist in making the status of plan transfers more transparent for regulators.

Although the ACA has been on the books for a while, there remain a number of issues to resolve. I look forward to working with the NAIC membership to take on the challenge. People's views on the ACA remain divided, but insurance regulators are united in their resolve to get the job done in an apolitical manner.

◆ NARAB II

In 1999, the enactment of the Gramm-Leach-Bliley Act (GLBA) sought to streamline non-resident licensing for insurance agents and brokers (producers) by requiring the states to enact certain reforms in the insurance producer-licensing process. A requisite number of states had to achieve either reciprocity or uniformity in non-resident producer licensing otherwise the National Association of Registered Agents and Brokers (NARAB) would have been created. State enactments of producer licensing reciprocity laws based on the NAIC Producer Licensing Model Act forestalled the creation of NARAB at the time.

However, while much progress has been made over the years to improve uniformity and streamline non-resident producer licensing, not all states became reciprocal, inhibiting the implementation of national licensing reciprocity. As a result, several insurance producer trade associations promoted a modified version of the original NARAB proposal: the National Association of Registered Agents and Brokers Reform Act (or, "NARAB II," as it was commonly called). Congress enacted NARAB II and President Obama signed the legislation on January 12, 2015. It was attached to the renewal of the Terrorism Risk Insurance Program.

We have long supported NARAB II, which is intended to streamline the non-resident producer licensing process while ensuring policyholders are well protected. NARAB II preserves the states' ability to protect consumers and regulate producer conduct—it does not create a federal regulator but establishes a non-profit corporation, known as NARAB, controlled by its Board of Directors. NARAB is to be governed by a 13-member board comprised of eight state insurance commissioners and five insurance industry representatives subject to Presidential appointment and Senate confirmation.

Acting through its board, NARAB will establish membership criteria for producers to obtain non-resident authority to sell, solicit or negotiate insurance (and perform incidental activities) in any state for which producer pays that state's licensing fee for any line(s) of insurance for which the producer is licensed in the home state. NARAB membership is not mandatory for producers. The law preserves the rights of a state pertaining to resident licensing and continuing education, supervision and enforcement of conduct, and disciplinary actions for nonresident producers, and leaves intact a state's full range of authorities for resident producers. The act also

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includes important disclosures to the states, addresses business entity licensing, and protects state revenues.

As with any change, implementation of NARAB II will be challenging. As one of my key initiatives, I am committed to working with NAIC members and the National Insurance Producer Registry Board of Directors to implement a cost-effective and efficient improvement to our regulatory processes. This operational efficiency allows us to preserve state oversight of important consumer protections related to the sale of insurance products in our jurisdictions. It also provides regulators with a supermajority of members on the NARAB II board.

◆ INTERNATIONAL

There are two international developments that are key concerns this year—a covered agreement and group capital standards. Both of these issues have garnered considerable discussion lately and continue to play a prominent role in international discussions.

Covered Agreement

The notion of a covered agreement was included in Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as a unique stand-by authority for Treasury and the United States Trade Representative (USTR) to address, if necessary, those areas where U.S. state insurance laws or regulations treat non-U.S. insurers differently than U.S. insurers. A covered agreement can serve as a basis for preemption of state law under certain circumstances.[5]

Historically, in the area of reinsurance collateral, U.S. insurance regulators have required non-U.S. reinsurers to hold 100% collateral within the U.S. for the risks they assume from U.S. insurers. As reinsurers are ultimately providing security to insurance companies that are directly protecting U.S. policyholders, requiring reinsurers to hold collateral in the U.S. is intended to ensure claims-paying capital is available and reachable by U.S. firms and regulators should it be needed, particularly in the wake of a natural disaster. Foreign reinsurers' regulators and politicians have objected to their insurers having to post collateral in the U.S. because this makes such capital unavailable for other purposes, including investment opportunities.

Recognizing the potential for variation in collateral requirements across states makes planning for collateral liability more uncertain and thus potentially more expensive. State regulators have been working together through the NAIC to reduce collateral requirements in a consistent manner commensurate with the financial strength of the reinsurer and the quality of the regulatory regime that oversees it. In 2011 the NAIC passed amendments to its "Credit for Reinsurance Models" that once implemented by a state, will allow foreign reinsurers to post significantly less than 100% collateral for U.S. claims, provided the reinsurer is evaluated and certified. Individual reinsurers are certified based on criteria that include, but are not limited to, financial strength, timely claims payment history, and the requirement a reinsurer be domiciled and licensed in a qualified jurisdiction.

The NAIC has established a comprehensive process for evaluating a jurisdictions' oversight of reinsurers in order to determine whether it is a jurisdiction for purposes of reduced collateral. As of January 1, 2015, Bermuda, France, Germany, Ireland, Japan, Switzerland, and the U.K. have been placed on the NAIC List of Qualified Jurisdictions. The NAIC has also established a peer review system surrounding the certification of foreign reinsurers by states, which provides a foreign reinsurer an opportunity for a passport throughout the U.S. To date, 26 foreign reinsurers have been certified under this peer review system.

In light of the progress made by the NAIC and the states to modernize credit for reinsurance rules, I am not convinced a covered agreement for reinsurance collateral is necessary. To date, 25 states have passed legislation, representing 60% of direct U.S. premium, to implement the revised NAIC Credit for Reinsurance Models and an additional 12 states have indicated their plans to do so in the coming months, which would raise the total market coverage to 93%. If this provision becomes an accreditation standard, the states will have accomplished what the covered agreement purports to do.

Group Capital

The severity of the 2008 global financial crisis underscored the interconnected nature of financial institutions, as well as the risks they pose to the financial system when they are in distress. While the insurance industry was not the root cause of the financial crisis, insurance markets have become increasingly global and interconnected, and activities they engage in have become increasingly tied to financial markets. The Financial Stability Board (FSB) was established in 2009 to coordinate at the international level the work of national financial supervisors and international standard setting bodies and to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies in the interest of financial stability.

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[5] A covered agreement is negotiated jointly by the U.S. Treasury's Federal Insurance Office (FIO) and the USTR with foreign authorities and can only enter into force if the FIO and USTR follow the submission and layover provisions of Title V of the Dodd-Frank Act, which require the FIO and USTR to jointly submit the agreement to the House Financial Services, House Ways and Means, Senate Banking, and Senate Finance committees on a day the House and Senate are in session and wait for a period of 90 days to elapse.

However, recent international developments, including the determination that certain insurers are systemically risky and that capital standards similar to those applied to banks are needed for insurers, has increased concern over international organizations seeking more prescriptive regulation worldwide. At the direction of the FSB, the International Association of Insurance Supervisors (IAIS) has moved rapidly to develop basic capital requirements (BCR) to serve as a basis for applying higher loss absorbency (HLA) capital measures (capital buffers). This effort is part of the policy measures recommended for application to global systemically important insurers (G-SIIs).

A BCR was approved at the end of last year and the IAIS is now focusing on developing a methodology to determine the HLA capital requirements this year, with implementation expected by 2019. In addition, the IAIS is currently developing a risk-based global insurance capital standard (ICS) to apply to all internationally active insurance groups (IAIGs) and plans to have a proposal by the end of 2016. Implementation would begin in 2019, after testing and refinement by the IAIS in consultation with insurance supervisors and IAIGs in the interim period.

I would like to point out we are extensively engaged in the IAIS capital standards development process. The ComFrame Development and Analysis (G) Working Group (CDAWG) has been meeting on a regular basis since its formation last year to discuss the IAIS capital initiatives and is in the process of gathering feedback from regulators on the questions posed in the consultation document. Additionally, several meetings have taken place between the NAIC, Federal Reserve and Treasury, as well as with stakeholders to advance the discussion and develop a U.S. perspective. With respect to the HLA, it is expected the CDAWG, as well as the NAIC Financial Stability (EX) Task Force, will consider the proposed methodology to determine an appropriate HLA once the IAIS releases its consultation document in June of this year.

U.S. insurance regulators recognize the IAIS is determined to pursue the development of global insurance capital standards on a fast-track basis, despite the significant challenges to translate fundamentally different regulatory and accounting systems in order to achieve some form of common measurement of group capital adequacy. We continue to work constructively within the IAIS process to advocate for capital standards that are reasonable in their application, compatible with our system, and practical for all jurisdictions. Standards used for banking regulation are not appropriate for the insurance sector; standards for insurers should be designed to reflect the insurance business model. If the IAIS recommends excessive or inflexible capital standards, then they would not likely be implemented broadly worldwide, particularly if they would increase costs on insurers and consumers, reduce the availability of long-term products, and curtail long-term investment.

I am committed to continuing our work with the IAIS, but stand ready to oppose IAIS proposals that will not work under the U.S. regulatory framework. The IAIS must realize insurance regulation cannot be a one-size-fits-all proposal. What works in mature markets might not work in emerging markets. Instead of the IAIS attempting to dictate how the world must work, I will encourage a more thoughtful approach of mutual recognition. Not every country chooses to have a single nation regulator covering all financial services firms. Choosing to measure jurisdictions on an outcome basis rather than structure provides the flexibility necessary to navigate our modern world.

◆ CONCLUSION

As you can plainly see, 2015 will be a busy year. Cybersecurity threats combined with several other regulatory issues will keep us busy. I am hopeful we can all work together to promote competitive insurance markets to serve insurance consumers. Insurance regulation is a noble calling. With your help, I hope insurance regulators can leave the world a better place from our efforts.

ABOUT THE AUTHOR

Monica Lindeen was elected Commissioner of Securities and Insurance, Montana State Auditor in 2008 and re-elected to a second term in November 2012. Lindeen makes it her mission to protect Montana's securities and insurance consumers through education, fairness, and transparency. During Lindeen's tenure, her office has returned more than $374 million to investors and insurance consumers and fielded tens of thousands of phone calls from Montanans struggling with their insurance companies.

Lindeen also received the Excellence in Consumer Advocacy Award, presented by the NAIC's Consumer Representatives, in 2013. She received the honor in recognition for her work as a strong voice for consumer protection and her dedication in maintaining states' rights in insurance

Lindeen began her career in public service representing a rural district in the Montana House of Representatives. Due to her hard work in the legislature, she earned a reputation as a common-sense moderate who could get things done. She quickly became a leader in the House and served four terms (1999-2006).

Lindeen earned a bachelor's degree in education, specializing in English and history. She completed graduate coursework in educational foundations at MSU-Billings.

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