MEMORANDUM

TO: Commissioners, Directors, Superintendents, and Interested Parties
FROM: Jennifer Neuerburg, Model Laws Coordinator
DATE: September 9, 2020
RE: Action on Model Laws, Guidelines, and White Papers at the 2020 Summer National Meeting

This memorandum describes NAIC action on model laws, guidelines, and white papers at the 2020 Summer National Meeting. For further information, including current drafts and staff support contacts for each item, please consult the NAIC web site (www.naic.org), Committees page.

I. Actions by Executive (EX) Committee and Plenary

A. Model Laws and Regulations Considered by the Executive (EX) Committee and Plenary

Amendments to Suitability in Annuity Transactions Model Regulation (#275)

The Executive (EX) Committee and Plenary adopted revisions to the Suitability in Annuity Transactions Model Regulation (#275) via conference call on February 13, 2020. The revisions were drafted for consistency with federal law and incorporate a best interest standard that requires producers and insurers to satisfy requirements outlined in a care obligation, disclosure obligation, conflict of interest obligation and a documentation obligation. The Life Insurance and Annuities (A) Committee adopted the revisions via conference call on December 30, 2019.

B. Guidelines Adopted by the Executive (EX) Committee and Plenary

The Executive (EX) Committee and Plenary did not adopt any guidelines at the Summer National Meeting.

C. Actuarial Guidelines Adopted by the Executive (EX) Committee and Plenary

1. Amendments to Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model #830) (AG 48)

The Executive (EX) Committee and Plenary adopted amendments to Actuarial Guideline XLVIII—Actuarial Opinion and Memorandum Requirements for the Reinsurance of Policies Required to be Valued under Sections 6 and 7 of the NAIC Valuation of Life Insurance Policies Model Regulation (Model #830) (AG 48).
Model Regulation (AG 48). The initial version of AG 48 immediately established national standards for the use of XXX/AXXX financing arrangements to quickly set minimum standards. Subsequently, the revised Credit for Reinsurance Model Law (Model #785) and the Term and Universal Life Insurance Reserve Financing Model Regulation (Model #787) were adopted to provide commissioners with the authority to enact, by regulation, additional requirements for ceding insurers to claim credit for reinsurance with respect to certain XXX/AXXX financing arrangements. AG 48 was amended to make it as consistent as possible with the provisions of Model #787. The Life Insurance and Annuities (A) Committee adopted the amendments on July 10, 2020.

2. **New: Actuarial Guideline XLVIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49-A)**

The Executive (EX) Committee and Plenary adopted Actuarial Guideline XLVIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49-A). AG 49-A provides uniform guidance for policies with index-based interest and is intended to apply to illustrations on policies sold on or after the effective date of AG 49-A, while the existing requirements continue to apply to enforce illustrations on policies sold before the effective date of AG 49-A. The Life Insurance and Annuities (A) Committee adopted AG 49-A on July 10, 2020.

D. **Bulletins/Consumer Alerts Adopted by Executive (EX) Committee and Plenary**

The Executive (EX) Committee and Plenary did not adopt any bulletins/consumer alerts at the Summer National Meeting.

E. **White Papers Adopted by Executive (EX) Committee and Plenary**

The Executive (EX) Committee and Plenary did not adopt any white papers at the Summer National Meeting.

F. **Guiding Principles Adopted by Executive (EX) Committee and Plenary**

**New: Artificial Intelligence Principles**

The Executive (EX) Committee and Plenary adopted the Artificial Intelligence Principles (Principles). The Artificial Intelligence (EX) Working Group was tasked with providing regulatory guidance, beginning with guiding principles, on the use of Artificial Intelligence (AI) in the insurance sector. The Principles establish general expectations for AI actors and systems emphasizing the importance of accountability, compliance, transparency, and safe, secure, and fair outputs. The Innovation and Technology (EX) Task Force adopted the Principles on August 7, 2020.
II. Actions by Executive (EX) Committee

A. Model Law and Regulation Requests Approved for Development by the Executive (EX) Committee

1. Amendments to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450)

The Executive (EX) Committee approved the model law development requests for amendments to the *Insurance Holding Company System Regulatory Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The first request was from the Receivership and Insolvency (E) Task Force to make changes to address issues that can arise in a receivership of an insurance company where affiliated entities provide essential services through inter-company agreements. The second request was from the Financial Stability (EX) Task Force to maintain the confidentiality of a liquidity stress test that the Task Force is currently developing for certain very large life insurers. The Financial Condition (E) Committee approved these requests prior to the scheduled Spring National Meeting.

In addition, at the 2019 Fall National Meeting the Executive (EX) Committee approved a request from the Group Capital Calculation (E) Working Group to revise Model #440 and Model #450 so that states can adopt the GCC.

2. Amendments to the *Standard Nonforfeiture Law for Individual Deferred Annuities* (#805)

The Executive (EX) Committee approved the model law development request for amendments to the *Standard Nonforfeiture Law for Individual Deferred Annuities* (#805). The request came from the Life Actuarial (A) Task Force and arises out concern over the 1% floor on the minimum nonforfeiture accumulation rate currently in the model. This minimum will be difficult for insurers to achieve in the current low interest rate environment. The Life Insurance and Annuities (A) Committee approved this request via conference call on July 20, 2020.

III. Actions by Other Committees, Task Forces and Working Groups

A. Life Insurance and Annuities (A) Committee

1. Amendments to *Annuity Disclosure Model Regulation* (#245)

The Life Insurance and Annuities (A) Committee granted a request for extension of time to the Annuity Disclosure (A) Working Group to continue drafting amendments to the *Annuity Disclosure Model Regulation* (#245). The Working Group met via conference call March 13, 2020 and adopted revisions to Section 6F(9)(b)(i) of Model #245. The Group also discussed potential revisions to Section 6G. The Working Group will review the suggested revisions to Section 6G and language modifications to the newly adopted Section 6F(9)(b)(i) before finalizing its draft. The Executive (EX) Committee approved the model law development request for these amendments at the 2017 Summer National Meeting.
2. Amendments to Life Insurance Disclosure Model Regulation (#580)

The Life Insurance and Annuities (A) Committee granted a request for extension of time to the Life Insurance Illustration Issues (A) Working Group to continue drafting amendments to the Life Insurance Disclosure Model Regulation (#580). The Working Group is amending Model #580 to include a policy overview document requirement into Model #580 to improve the understandability of the life insurance policy summary and narrative summary already required by Section 5A(2) of Model #580. The Executive (EX) Committee approved the request for model law development to amend the model at the 2017 Summer National Meeting.

B. Health Insurance and Managed Care (B) Committee

The Health Insurance and Managed Care (B) Committee did not take action on any model laws at the 2020 Summer National Meeting.

C. Property and Casualty Insurance (C) Committee

1. Real Property Lender-Placed Insurance Model Act

The Property and Casualty Insurance (C) Committee granted an extension of time to continue drafting the new Real Property Lender-Placed Insurance Model Act until the 2020 Fall National Meeting. The Lender-Placed Insurance Model Act (C) Working Group is drafting the model to address lender-placed insurance related to mortgage loans. The Executive (EX) Committee approved the model law development request for this Act at the 2017 Summer National Meeting.

2. Workers’ Compensation White Paper

The Property and Casualty Insurance (C) Committee adopted the white paper, *An Overview of Workers’ Compensation Independent Contractor Regulatory Approaches*. The NAIC/IAIABC Joint (C) Working Group of the Workers’ Compensation (C) Task Force was charged with updating the 2009 white paper, *An Overview of Workers’ Compensation Independent Contractor Regulatory Approaches*. The Working Group expanded this charge to explore how changes in work and the evolving landscape surrounding the legality of employment options are shifting responsibility for coverage and benefits related to occupational injuries, illnesses and fatalities. The white paper also includes an appendix that provides state standards used to determine independent contractor status.

3. State Disaster Response Handbook

The Property and Casualty Insurance (C) Committee adopted the *State Disaster Response Plan*. The *State Disaster Response Plan* is a document that state insurance departments can use as a template to create a disaster response plan.

4. Private Passenger Auto Insurance Study

The Property and Casualty Insurance (C) Committee adopted the *Private Passenger Auto Insurance Study* via conference call on June 10, 2020. The Auto Insurance (C/D) Working Group, before it was disbanded in 2018, began collecting data to help analyze the private
passenger auto insurance market. The Property and Casualty Insurance (C) Committee finalized an updated study in Fall 2019 with more recent data from 2016 and 2017.

D. Market Regulation and Consumer Affairs (D) Committee

The Market Regulation and Consumer Affairs (D) Committee did not take action on any model laws at the 2019 Fall National Meeting.

E. Financial Condition (E) Committee

Amendments to the Mortgage Guaranty Insurance Model Act (#630)

The Financial Condition (E) Committee granted a request for extension of time to the Mortgage Guaranty Insurance (E) Working Group to continue drafting amendments to the Mortgage Guaranty Insurance Model Act (#630). The Working Group’s goal is to construct a counter-cyclical model similar to risk-based capital. Subsequent to the 2019 Fall National Meeting, the Group exposed a draft of the model. The Working Group believes it can complete its work by the 2020 Fall National Meeting. The Executive (EX) Committee approved the model law development request for these amendments prior to the Summer 2013 National Meeting.