NAIC/INDUSTRY LIAISON COMMITTEE

NAIC/Industry Liaison Committee April 8, 2019, Minutes

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Draft: 4/22/19

NAIC/Industry Liaison Committee
Orlando, Florida
April 8, 2019

The NAIC/Industry Liaison Committee met in Orlando, FL, April 8, 2019. The following Liaison Committee members participated: James A. Dodrill, Chair (WV); John G. Franchini, Vice Chair (NM); Lori K. Wing-Heier represented by Michael Ricker (AK); Jim L. Ridling (AL); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier represented by Erin VanSickle (FL); Dean L. Cameron represented by Elaine Mellon (ID); Nancy G. Atkins (KY); Chlora Lindley-Myers (MO); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge represented by Peg Jasa (NE); Glen Mulready represented by Buddy Combs (OK); Andrew Stolfi represented by Dennis Powell (OR); Jessica Altman represented by Katie Dzurec (PA); Larry Deiter (SD); Scott A. White represented by Don Beatty and Rebecca Nichols (VA); and Mark Afable (WI). Also participating was: Ken Allen (CA).

1. Adopted its 2018 Summer National Meeting Minutes

Commissioner Atkins made a motion, seconded by Director Lindley-Myers, to adopt the Liaison Committee's Aug. 6, 2018, minutes (*see NAIC Proceedings – Summer 2018, NAIC/Industry Liaison Committee*). The motion passed unanimously.

2. Discussed the Private Flood Market and New Federal Banking Regulatory Rules

John M. Huff (Association of Bermuda Insurers and Reinsurers—ABIR), Ted Nickel (ABIR) and Dennis C. Burke (Reinsurance Association of America—RAA) discussed the issue of flood risk in the U.S. and next steps to improve the flood insurance market and address the vast number of uninsured Americans.

Mr. Huff said half of the U.S. population is at risk of serious flooding, noting that flooding can happen anywhere. He highlighted issues with the current flood insurance market, including that flood insurance is not included in standard homeowners coverage, the National Flood Insurance Program (NFIP) only has a relatively small number of individuals covered in the program despite being the dominate provider in the market, and NFIP customers are not protected by state-based insurance regulation.

Mr. Huff stated that despite an increasing number of flood events each year, the overall number of NFIP policies has been decreasing since 2008. He said, in order to reach the Federal Emergency Management Agency's (FEMA) goal of doubling the number of properties with flood insurance policies from 4 million in 2019 to 8 million by 2022, a collaborative effort is needed between the private industry and the NFIP. He listed some favorable conditions that can help grow the private flood market, including consumers wanting more options in their insurance products and well capitalized insurance and reinsurance markets.

Mr. Nickel discussed opportunities for next steps in building a strong private flood market for consumers.

Commissioner Afable asked how much of the direct written premium in the private market is being written by surplus lines carriers. Mr. Huff said the data presented only captures surplus line carriers that write in more than one state because of the way it is collected.

Commissioner Afable then asked the presenters to discuss the general differences in coverage between the private market and the NFIP. Mr. Huff said there are threshold limits built into the NFIP, noting that there is a significant amount of innovation within the private markets that is not available through the NFIP.

3. Discussed Litigation and Liability Developments

David F. Snyder (American Property Casualty Insurance Association—APCIA) discussed litigation and liability developments and concerns that could impact the insurance industry.

Mr. Snyder stated that recently he has seen efforts to erode statutes of limitation, which sometimes arise out of sympathetic circumstances, but tend to cause opportunities for litigation and potential cost increases that were not predicted or expected.

To that point, he said the uncertainty that it creates directly contributes to costs in the industry, as well as potential future costs. He described the American Law Institute's (ALI) "Restatement of the Law, Liability Insurance" as a usurpation of the legislative and regulatory authority of state insurance regulators and legislators, noting that he is encouraged that the National Council of Insurance Legislators (NCOIL) and a number of the states have acted on it as an unjustified intrusion of the states' authority.

Mr. Snyder also discussed the sudden increase of litigation financing and how that, as well as other liability developments, are already negatively impacting certain lines of insurance. He said there is always a constant danger of new exposures and uncertainty that raise underlying costs. He asked that state insurance regulators work with insurers to account for and understand these trends, as well as share information from the perspective of state insurance regulators in the public policy debate.

4. <u>Discussed Domestic and International Reinsurance Regulation Improvements</u>

Mr. Snyder and Edward J. Kelley (Transatlantic Reinsurance Company—TransRe) discussed recommendations for improving the domestic and international reinsurance marketplace in order to create a more efficient and effective regulatory process for reinsurers.

Mr. Kelley discussed the challenges of the domestic system for reinsurers. He said definitions differ from state to state, creating complications in compliance, and various state mandates being applied to reinsurers are irrelevant to their operations. He said, from a reinsurance perspective, a lot of the current regulations are extraneous, and the industry would like to see improvements in the licensing and regulation of reinsurance to streamline the process. He recommended providing a passport system that recognizes regulations from one state to another or giving companies the option to purchase a reinsurance-only license.

Mr. Snyder then addressed the growing international barriers to global reinsurance companies. He said certain countries, such as India and Indonesia, are increasingly discriminating against global reinsurers by forcing international reinsurers to comply with the locally owned reinsurer(s). He said the self-defeating nature of these polices is that global reinsurers allow diversification of risk and capital. By requiring reinsurance to be localized, countries put themselves at higher risk of financial crises when catastrophes occur and losses are localized. Mr. Snyder recommended that the NAIC and state insurance regulators engage in a dialogue with the industry on the streamlining of domestic reinsurance. He also recommended that they continue working with reinsurers in international forums and trade discussions.

Commissioner Dodrill asked what the long-term impact of the "Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (U.S./EU Covered Agreement) and the "Bilateral Agreement Between the United States and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance" (U.S./UK Covered Agreement) is.

Mr. Kelley replied that he personally sees a further strengthening of the domestic reinsurance market, as well as regulatory certainty for U.S. operations in the EU and UK, which are two significant international reinsurance markets.

5. <u>Discussed Dental Network Leasing Restrictions and Provider Network Legislation</u>

Charles Piacentini (American Council of Life Insurers—ACLI) and Eme Augustini (National Association of Dental Plans—NADP) discussed the impact of network leasing legislation on consumers and state dental markets, and they suggested alternatives to the bans that address concerns but do not prevent carriers from accessing these markets.

Ms. Augustini detailed legislation being introduced that would restrict or prohibit the leasing of dental networks, which hinders a carrier's ability to provide employers and consumers with adequate networks. She discussed how network leasing has the potential to enhance the existing structure of preferred provider organizations (PPO) and create additional value for employers, providers and consumers. She explained that leasing arrangements allow providers to reduce redundant contracting and credentialing paperwork, as well as obtain access to new market segments and patients. She said better access to care with network leasing increases convenience and affordability for consumers. She said individuals with dental benefits are twice as likely to visit the dentist and take their children to the dentist due to the strong link between oral health and overall health. She emphasized that maximizing consumer access to care is an important objective, and leasing arrangements can help in this endeavor.

Mr. Piacentini discussed concerns regarding legislation prohibiting the practice of network leasing due to dental health connections with other medical conditions. He said such legislation can trigger additional health care costs for individuals and negatively impact consumers. He highlighted the importance of having robust dental markets with providers that are deeply imbedded in the states.

Superintendent Franchini asked why these networks are being rejected in these states. Mr. Piacentini replied that it is sometimes driven by dentists who believe they are being subjected to agreements they do not have input in and that determine how much they can charge consumers. He said better disclosure requirements are needed, which would help dentists understand the benefits and conditions of being leased.

Mr. Beatty said legislation banning network leasing was introduced in Virginia, but the dentists and health insurers in the state were able to collaborate with one another on a solution to bring to the Virginia General Assembly. He emphasized the opportunity for dentists and providers to work together for a joint solution to the issue.

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

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