

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS  
INTERNATIONAL INSURANCE ISSUES COMMITTEE  
NAPA, CALIFORNIA  
NOVEMBER 10, 2006  
DRAFT MINUTES

The International Insurance Issues Committee of the National Conference of Insurance Legislators (NCOIL) met at the Marriott Napa Valley Hotel and Spa in Napa, California, on November 10, 2006.

Rep. Craig Eiland, vice chair of the Committee, presided.

Other members of the Committee present were:

Rep. Terry Parke, IL  
Rep. Dennis Keene, KY  
Rep. George Keiser, ND  
Rep. Daniel Foley, NM  
Assem. Nancy Calhoun, NY  
Assem. Ivan Lafayette, NY  
Del. Harvey Morgan, VA

Other legislators present were:

Rep. Michael Ripley, IN  
Rep. Shirley Bowler, LA  
Sen. Alan Sanborn, MI  
Sen. Pam Redfield, NE  
Rep. Donald Flanders, NH  
Sen. Jerry Klein, ND  
Rep. Frank Wald, ND  
Rep. Tony Melio, PA  
Rep. Kathleen Keenan, VT  
Rep. Gini Milkey, VT

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director

## MINUTES

Upon a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 21, 2006, meeting in Boston, Massachusetts.

## EU/US ISSUES OF COMMON CONCERN

David Matcham of the International Underwriting Association (IUA) provided a historical perspective on the subject of contract certainty. He said that, historically, wholesale contracts had been issued via binders without the issuance of a policy. However, pursuant to an agreement

with the Financial Services Authority (FSA), the UK insurance regulator, in the future all terms and conditions of insurance contracts must be agreed to by both the insured and insurer prior to the inception of such contracts, he said.

Mr. Matcham said that for many years the binder system worked well, but he used the World Trade Center catastrophe as an example of a circumstance in which use of binders did not work as intended. He said the new system would involve a change in culture, greater use of technology, and generally doing things earlier within the policy issuance process.

According to Mr. Matcham, the new process will affect approximately 400 regulated entities, including brokers, insurers, reinsurers, and Lloyds syndicates. He noted that there were additional matters to be addressed, including how to deal with previously issued binders. Notwithstanding the obstacles, Mr. Matcham said, the market had attained a compliance level of 90 percent or higher. He noted that this was a good example of how the markets and regulators can work well together.

Turning to the subject of compensation funds, Mr. Matcham said that while there was a compensation fund mechanism, referred to as a guaranty scheme, in place in the UK, many other EU countries do not have such a system. He discussed an example whereby an insurance contract issued by a Greek insurer that becomes insolvent would not be covered by a guaranty scheme, whereas if the same contract were issued by a UK insurer that became insolvent, the policyholder would be covered. He suggested that this scenario disadvantages UK insurers and that a pan-EU solution would be desirable. He noted that an EU Internal Market Directorate has been working on a pan-EU guaranty scheme, but that progress has been slow.

With respect to the issue of flood management, Mr. Matcham told Committee members that the EU was considering a flood management directive that would assess the risk of different river basins and flood-prone areas with the goal of establishing plans to mitigate and manage flood damage, especially in northern Europe. He indicated that in the UK flood insurance was generally available.

On the subject of Solvency II, a pan-European project that would introduce a risk-based regulatory system for insurers, Mr. Matcham noted that regulators were trying to implement the program via a directive across Europe, scheduled for release in 2007. He noted that now was the time for those affected by Solvency II to influence the shape of the first draft. In response to a question from Rep. Eiland, Mr. Matcham discussed enforcement efforts that could be undertaken in the event a specific country within the EU, for instance the UK, did not adopt an EU directive.

#### INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS (IAIS)/NAIC INTERNATIONAL ACTIVITY

Maine Insurance Superintendent Alessandro Iuppa, president of the NAIC, noted that a recent IAIS conference in Beijing, China, included a significant US presence. He said approximately 120 countries and all US states are members of IAIS. He then discussed the cost and governance structure of the IAIS.

Superintendent Iuppa told Committee members that for the last several years US regulators have, thus far without success, strongly encouraged the IAIS to develop an international standard regarding transparency and administrative due process. Superintendent Iuppa reported that efforts were ongoing to determine the best funding and organizational structure mechanisms for the IAIS, noting that countries with developed versus emerging markets held different views. He said resolution of the issue was a three to five-year process.

Superintendent Iuppa said that a report at the IAIS meeting regarding financial stability addressed matters such as the potential for an Avian Flu or other pandemic to disrupt the financial services sector.

Finally, Superintendent Iuppa briefed Committee members on additional issue papers that had been released and efforts by the US to meet with Chinese insurance officials to discuss issues of interest to these two countries, such as pension system funding and the structure/continuation of an internship program between the US and China. He also noted that the US had held bilateral meetings with delegations from Russia, Hong Kong, Japan, Brazil, and Vietnam.

#### FINITE INSURANCE/REINSURANCE ARRANGEMENTS

Superintendent Iuppa said that, presently, there were no proposals being advanced regarding these arrangements but that the NAIC was monitoring foreign developments. With respect to reinsurance collateral, he discussed efforts by the NAIC to formulate a proposal on the subject, which he characterized as a rating proposal. He said that interested parties were offering their comments on the proposal, and he said that he was hopeful the NAIC might take action at its December meeting.

#### INTERNATIONAL ACCOUNTING STANDARDS

Sandra Siegel, representing the Group of North American Insurance Enterprises (GNAIE), overviewed two significant developments in international accounting standards that will affect the US insurance industry.

First, Ms. Siegel discussed convergence. She said the EU Parliament had adopted a resolution that would ensure that by January 2009 historical information contained in a prospectus filed by a US, Canadian, or Japanese insurer would be filed pursuant to internationally accepted accounting standards. This resolution, she explained, was in response to a similar U.S. Securities and Exchange Commission (SEC) directive applicable to EU insurers, and was a form of reciprocity.

Ms. Siegel then discussed the Insurance Contracts Project, a joint effort between the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB). She noted that while accounting standards for insurer assets would not differ from those of other entities, there would be significant differences with respect to insurers' liabilities. She indicated that the US insurance industry does not agree with some of the tentative decisions that have been reached, including decisions concerning current exit value, acquisition costs for life insurers, and policyholder participation rights.

ADJOURNMENT

There being no other business, the Committee adjourned at 11:45 a.m.

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