NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE & FINANCIAL PLANNING COMMITTEE
WASHINGTON, D.C.
FEBRUARY 28, 2008
MINUTES

The National Conference of Insurance Legislators (NCOIL) Life Insurance & Financial Planning Committee met at the Hyatt Regency on Capitol Hill in Washington, D.C., on Thursday, February 28, 2008, at 2:00 p.m.

Rep. Brian Kennedy of Rhode Island, acting chair of the Committee, presided.

Other members of the Committee present were:
Rep. George Keiser, ND
Rep. Frank Wald, ND
Sen. Carroll Leavell, NM
Sen. Neil Breslin, NY
Assem. Nancy Calhoun, NY
Assem. Ivan Lafayette, NY
Rep. Hubert Vo, TX

Other legislators present were:
Rep. Kurt Olson, AK
Rep. Greg Wren, AL
Rep. Joseph Hardy, NV
Assem. Joseph Morelle, NY
Sen. Jerry Klein, ND
Rep. Craig Eiland, TX
Rep. Larry Taylor, TX

Also in attendance were:
Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs and Education

MINUTES
The Committee voted unanimously to approve the minutes of its November 15, 2007, meeting in Las Vegas, Nevada.

UPDATE ON PRINCIPLES-BASED APPROACHES FOR LIFE INSURANCE RESERVING

Susan Voss, Secretary-Treasurer of the National Association of Insurance Commissioners (NAIC) and Iowa Insurance Division Commissioner, provided the Committee with a brief update on joint NAIC and American Academy of Actuaries (AAA) efforts to effectuate a principles-based system of valuating reserves for life insurance companies. Commissioner Voss said that the NAIC Life & Health Actuarial Task Force (LHATF) hoped to have a new Standard Valuation Law completed by the 2008 NAIC Summer Meeting. She said that a corresponding Valuation Manual would be completed shortly thereafter.

Dave Sandberg of the American Academy of Actuaries (AAA) told the Committee that the goal of the Valuation Manual is to provide policymakers with an efficient tool to incorporate the principles-based criteria into a broader regulatory framework. He said that it is not efficient to incorporate the new changes separately in 50 different states.

Commissioner Voss urged Committee members to maintain an active dialogue with the NAIC regarding these efforts. She said that the process is taking time because regulators want to produce a sound product that takes all areas of concern into consideration. She said the NAIC had received questions from the Internal Revenue Service (IRS) about a series of tax-related issues and noted that the NAIC is in the process of drafting a response to these inquiries.

Rep. Keiser asked if life settlement contracts would be impacted by the new principles-based reserving system.

Commissioner Voss said that she hadn't heard the matter addressed by the Committee, but said that she would raise the issue when the LHATF met for its 2008 Spring Meeting in Orlando, Florida.

UPDATE ON STATE LEGISLATIVE LIFE SETTLEMENT ACTIVITY

Daniel Harris of the Life Insurance Settlement Association (LISA) said that 20 states were either considering new legislation or amending existing provisions to govern life settlements. He said that states were using the NAIC *Viatical Settlements Model Act* and the NCOIL *Life Settlements Model Act* as templates—with many of the states incorporating language and key provisions from both models.

John Gerni of the American Council of Life Insurers (ACLI) said the NCOIL *Life Settlements Model Act* meets the primary goal of defining and making illegal stranger-originated life insurance (STOLI) transactions. He agreed with Mr. Harris that states are introducing a number of different options, including hybrid bills that incorporate key aspects of both models. He said in that in addition to STOLI definitions and penalties, many states are including NCOIL language regarding premium finance transactions in STOLI arrangements.

REPORT ON QUESTIONABLE SENIOR DESIGNATION PRACTICES IN FINANCIAL PLANNING

Ryan Wilson of the American Association of Retired Persons (AARP) said that some salespeople are misrepresenting their level of expertise to senior investors. He said the American population is increasingly reliant on financial professionals to manage investments, which was generating an influx of fraud among those operating in the market. He said that seniors seeking the assistance of financial professionals are being targeted with frivolous marketing and misrepresentations at alarming rates.

Mr. Wilson said that the AARP is conducting outreach projects to educate its members about the prevalence of these misleading designations. He said that regulators should continue to educate the public and develop regulatory standards that are consistent, transparent, and establish clear and workable standards for the industry. He said that it is important for legislators to communicate with their insurance departments to ensure that more is being done to protect seniors. He said that senior-specific designations need to be substantive and regulated properly.

Karen Tyler, president of the North American Securities Administrators Association (NASAA), agreed with Mr. Wilson and said that more regulation is needed for the "alphabet soup" of designations. She said that many of these designations are being used in conjunction with "free meal seminars" that are little more than marketing schemes. She said it is increasingly difficult for senior investors to determine the validity of one designation from another.

Ms. Tyler said that NASAA had appointed a task force in January 2007 to review the designation issue and explore appropriate regulatory responses. She said that current requirements and regulations regarding these designations vary greatly and make it difficult for prospective investors to determine the legitimacy of their advisors and their certifications.

Ms. Tyler said that NASAA had worked with interested parties to develop a model rule regarding the use of senior and retiree designations. She said the rule supports accreditation of certain designations and outlines punitive measures for agents who violate the regulation. She said the model represents five years of work and believed that the NASAA Board of Trustees would vote on the measure in the coming month.

Ms. Tyler said that the United States Senate Special Committee on Aging had held a September 2007 hearing to address the senior designation issue. She said that the Committee was working on legislation to make grant money available to states that adopted the NASAA Model Rule on senior designations. She said that the funds are intended for increased state efforts and regulatory oversight of these designations.

Gary Sanders of the National Association of Insurance and Financial Advisors (NAIFA) said that the reputation of all advisors was damaged by a proliferation of misleading designations. He said that NAIFA felt that the fraudulent practices of a few could damage the trust and respect of those legitimate advisors. He said that NAIFA strongly condemned all sales practices that mislead consumers, but said that it was important to draft regulation that would protect senior investors without impeding the practices of legitimate agents and advisors.

Mr. Sanders said NAIFA believed that any regulatory measure should promote uniformity among states and across products; should be objective rather than subjective; and should offer provisions that clearly define front end provisions to educate consumers and financial advisors alike.

Assem. Morelle asked the panelists to clarify who the NASAA model rule would regulate.

Ms. Tyler replied that NASAA maintained jurisdiction over registered representatives from broker dealer firms and investment advisors in a state. She said that the NASAA model rule applied to the use of certifications by licensed producers, brokers and advisors in a jurisdiction.

REPORT ON EFFORTS TO CLARIFY DEFINITION OF GROUP LIFE

Mr. Gerni said that states are looking to modernize an NAIC model act regarding the definition of a group life insurance product. He said that significant variation exists between states on the number of participants required for a group policy.

Mr. Gerni said that the model suggests reducing the qualifying number to two members. He said 29 states had attempted to enact similar changes in the last couple of years. He said that reducing the qualifying number could lower premiums and encourage more people to purchase life insurance.

OTHER BUSINESS

Rep. Keiser, speaking on behalf of Sen. James Seward of New York said that concerns had been raised regarding Section 13(A)(5) of the NCOIL *Life Settlements Model Act.* He said that certain interested parties believed that the language contained in this subsection could prohibit an insurance agent who is affiliated with a premium finance lender from collecting a commission if the sale of the policy also involves premium financing.

Rep. Keiser asked NCOIL staff to explore the issue and report to the Committee at the Summer Meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at 4:15 p.m.

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