NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
INTERNATIONAL INSURANCE ISSUES COMMITTEE
NEW ORLEANS, LOUISIANA
NOVEMBER 20, 2009
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at the Royal Sonesta Hotel in New Orleans, LA, on Friday, November 20, 2009, at 9:30 a.m.

Sen. Vi Simpson of Indiana, chair of the Committee, presided.

Other members of the Committee present were:

Rep. Barb Byrum, MI	Sen. Mike Hall, WV
Rep. George Keiser, ND	

Other legislators present were:

Sen. Ruth Teichman, KS	Rep. Charles Priest, ME
Rep. Susan Westrom, KY	Rep. Brian Kennedy, RI
Rep. Edward Legg, ME	Rep. Gini Milkey, VT

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director

MINUTES
After a motion made and seconded, the Committee voted unanimously to approve the minutes of its meeting on July 10, 2009, in Philadelphia, PA.

GLOBAL SYSTEMIC RISK DEVELOPMENTS
Ed Stephenson of Barnert Associates, on behalf of the Group of North American Insurance Enterprises (GNAIE), reported that European Union (EU) had proposed a European Systemic Risk Council that would be charged with monitoring systemic risk, identifying areas of potential concern, and issuing recommendations to national supervisors. He said that national supervisors would need to comply with the Council recommendations or explain why they had not. He also reported that existing banking, insurance, and securities regulators in the EU would receive new powers under the plan to address regulation and enforcement. He said that the EU had been very active in pushing the G20 to develop global systemic risk approaches.

Responding to a question from Sen. Simpson regarding the impact of EU and G20 discussions on U.S. insurers, Mr. Stephenson said that a structure and powers for overseeing systemic risk were still under development, as they were in the U.S. Brad Kading of the Association of Bermuda Insurers and Reinsurers (ABIR) said that U.S. policymakers should realize how essential it was for the U.S. to develop a group supervision regime for insurance company groups and other financial conglomerates. David Snyder of the American Insurance Association (AIA) commented that we were in a global regulatory environment and that insurance regulatory issues increasingly would emanate from outside of U.S. borders.

SOLVENCY II: GROUP SUPPORT

Mr. Stephenson said that the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) was working on implementation guidance for Solvency II that related to agency regulations and capital and surplus requirements. He said that CEIOPS had completed approximately 50 consultation papers asking for interested-party comments and that it was working through the roughly 20,000 comments it had received. He reported that a target completion date was in 2010.

Mr. Stephenson explained that under group support, regulators would evaluate the solvency of an insurance entity based on the capital position of its holding company, and vice versa, regardless of their domiciles. He stated that group support had been tabled by the EU Council in order to get Solvency II approved, with a promise to revisit the issue in a few years.   He said that group support was highly controversial.

Robert Tomlinson of the Kansas Insurance Department, on behalf of the National Association of Insurance Commissioners (NAIC), described group support as allowing companies within a group to maintain minimal collateral standards while the parent company maintained the required solvency collateral. He said there would be a required legal guarantee that parent-company resources would be transferred a troubled smaller company in the group if needed. He said that concerns related to lack of a definition for “legal” and to small versus large state issues. He said that the NAIC was monitoring developments.

SOLVENCY II: THIRD-COUNTRY EQUIVALENCE

Mr. Kading said that CEIOPS would begin assessing third countries for their equivalency to EU regulation in the fall of 2010 and would complete a second wave of reviews in late 2011. He said the European Commission would make its decisions in early 2012 regarding countries deemed equivalent. He listed the U.S., Bermuda, Switzerland, Japan, Canada, and Australia as third countries under examination. He said that the reviews would look at reinsurance regulation, group capital regulation, group supervision, and privacy laws. He said that potential penalties for non-equivalency could include being denied group supervisor status, not having capital and other requirements recognized, and having reinsurance collateral requirements imposed on certain companies.

Mr. Snyder said that it was important to realize that the U.S. was in a race for global capital and insurance. He said that the U.S. must establish more effective and efficient regulation so that companies could compete internationally, thereby bringing premium dollars and jobs to the U.S.

Rep. Legg said that Maine had created a commission to determine whether international trade agreements preempted all U.S. law and asked whether such agreements were an industry concern. Mr. Snyder replied that under the U.S. constitutional framework, it was the federal government that must represent the national interest of the U.S. abroad.

IASB/FASB ACTIVITY

Mr. Stephenson said that the Financial Accounting Standards Board (FASB) had joined an International Accounting Standards Board (IASB) insurance contracts project. The goal, he said, would be to establish a single standard for insurance contracts effective for both U.S. Generally Accepted Accounting Principles (U.S. GAAP) and International Financial Reporting Standards (IFRS). He said the Boards planned to release an exposure draft of the standard by April 2010, with implementation by mid-2011.

Mr. Stephenson described several GNAIE-member concerns, including those related to a measurement objective, acquisition costs, discount rates, treatment of participation features, and unbundling, among others. He noted that insurance companies could face increases in U.S. GAAP liabilities and that the industry could see fewer new market entrants, particularly in life insurance.

Sen. Simpson asked about a role for state legislators in accounting discussions. Mr. Stephenson encouraged NCOIL—in its talks with the NAIC and the U.S. Securities and Exchange Commission (SEC), among others—to discuss how the standard-setting process would or would not reflect the business model of insurance.

H.R. 3424 LIMITS ON AFFILIATE TAX DEDUCTIONS

Mr. Tomlinson said that H.R. 3424 would tax any portion of a company's reinsurance agreement with an affiliated company above an industry standard. The standard, he said, would be set annually by the U.S. Treasury Department. Mr. Tomlinson then offered an example, in which company A entered into a reinsurance agreement with company B (an affiliated company) and spent $100 on the reinsurance agreement. The Treasury Department, he said, had set the industry standard at $75. He explained that, under H.R. 3424, company A could deduct the $75 that it paid for the reinsurance premium up to the industry standard, but that the additional $25 would not be deductible and would be returned to its revenue on a taxable basis. He said that the NAIC did not have a position on H.R. 3424.

Mr. Kading reported that H.R. 3424 did not have a Senate companion and was not expected to move on its own. He said that it could be attached as an amendment to a moving piece of legislation as a revenue raiser. He said that NCOIL should be concerned because the bill would affect the availability of reinsurance in the U.S. He also overviewed an economic analysis by Professor David Cummins of The Wharton School showing, he said, that the bill would lead to a 20 percent reduction in the supply of reinsurance to the U.S. and to significant cost increases to U.S. consumers. He added that ABIR, the Risk and Insurance Management Society (RIMS), and several other groups were working against the bill.

PROPOSED 2010 COMMITTEE CHARGES

Ms. Thorson said the proposed Committee charges for 2010 were as follows:

- Develop and enhance communications with foreign legislators and regulators
- Examine international accounting standards and develop a position as appropriate
- Monitory Solvency II mutual recognition activity and develop a position as appropriate
- Explore federal efforts related to reinsurance tax treatment

Upon a motion made and seconded, the Committee adopted the proposed charges.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:20 a.m.

K:/NCOIL/2009 Documents/2006713a.doc