NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
FINANCIAL SERVICES & INVESTMENT PRODUCTS COMMITTEE
WASHINGTON, DC
MARCH 4, 2011
MINUTES

The National Conference of Insurance Legislators (NCOIL) Financial Services & Investment Products Committee met at the Hyatt Regency on Capitol Hill in Washington, DC, on Friday, March 4, 2011, at 2:15 p.m.

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

Other members of the Committee present were:

Sen. Vi Simpson, IN	Rep. Charles Curtiss, TN
Rep. George Keiser, ND	Rep. Kathleen Keenan, VT
Sen. William J. Larkin, Jr., NY	Sen. Mike Hall, WV
Sen. Keith Faber, OH	

Other legislators present were:

Rep. Kurt Olson, AK	Rep. Jim Kasper, ND
Rep. Barry Hyde, AR	Sen. Rich Pahls, NE
Rep. Nancy McLain, AZ	Sen. Bill Brown, OK
Sen. William Haine, IL	Rep. Glen Mulready, OK
Rep. Sharon Treat, ME	Rep. William Botzow, VT
Rep. Peter Lund, MI	

Also in attendance were:

Susan Nolan, NCOIL Executive Director
Candace Thorson, NCOIL Deputy Executive Director
Mike Humphreys, NCOIL Director of State-Federal Relations
Jordan Estey, NCOIL Director of Legislative Affairs & Education

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its November 18, 2010, meeting in Austin, TX.

FEDERAL/CONGRESSIONAL PLANS

Mr. Humphreys highlighted a January NCOIL letter to the 112th Congress that he said reiterated support for state-based insurance regulation. In reporting on the new Congress, he said that Congressman Spencer Bachus (R-AL) is the new chair of the House Financial Services Committee (HFSC) and that Congresswoman Judy Biggert (R-IL) chairs a new Subcommittee on Insurance, Housing & Community Opportunity. Mr. Humphreys said that Senator Tim Johnson (D-SD), who had previously sponsored optional federal charter (OFC) legislation, chairs the Senate Banking, Housing & Urban Affairs Committee.

Mr. Humphreys also reviewed the Committees' Oversight Plans for the 112th Congress, which he said included review of the expiring National Flood Insurance Program and monitoring development of the Federal Insurance Office (FIO) and other Dodd-Frank insurance impacts, among other things.

Julie Gackenbach of Confrere Strategies reported that Congressman Ed Royce (R-CA) was meeting with every member of the HFSC to seek support for OFC legislation that he planned to reintroduce. Regarding other activity, Ms. Gackenbach said, among other things, that:

- the Federal Insurance Office (FIO) lacked a Director but hired a second staff member
- the Financial Stability Oversight Council (FSOC) issued a notice of proposed rulemaking regarding the supervision of non-bank financial companies that suggested six broad categories: size, lack of substitutes, interconnectedness, leverage, liquidity risk, and existing regulatory structure
- insurance industry representatives urged FSOC to include the six factors in the rule and asked for explicit criteria to determine systemically significant companies
- insurance industry representatives asked FSOC to delay insurance-related discussions until the FIO Director and FSOC independent insurance expert positions were filled

PROPOSED FEDERAL RULE IMPACTING CREDIT INSURANCE

Scott Cipinko of the Consumer Credit Industry Association (CCIA) reported that on February 1, Federal Reserve Board (FRB) staff announced that the FRB would not finalize a proposed rule that would impact credit insurance and debt protection products. He said that the FRB would instead refer Rule 1390 to the Consumer Financial Protection Bureau (CFPB). Mr. Cipinko commented that the proposed rule would create unfair disclosures that would put credit insurance and debt protection products in a negative light. He added that even though the CFPB will not have authority over insurance, it will have—because the CFPB enforces the *Truth in Lending Act*— authority over credit insurance sold in connection with certain loans.

Responding to questions from Sen. Haine, Mr. Cipinko said that the CCIA supports fair and effective regulation and disclosure for credit insurance/debt protection products. He commented that the FRB disclosures were biased against purchasing such products.

PUBLIC PENSION REFORMS

Keith Brainard of the National Association of State Retirement Administrators (NASRA) overviewed public pension plans and compared them to private sector employer-sponsored retirement plans. He said that 85 percent of state and local government employees participate in a traditional defined-benefit (DB) plan. Roughly one-half of private sector employees participate in an employer-sponsored retirement plan, he said, and 20 percent of them have traditional DB plans. Mr. Brainard said the public pension community includes 15 million active participants and $2.87 trillion in assets. He said that state and local pension fund assets had sharply declined in 2008 as a result of the nation's financial crisis and have since begun to recover.

Mr. Brainard reported on opposition to public pensions, noting that some people believe that public employee benefits should be no greater than what is provided to private-sector workers. He cautioned that linking public-sector pensions to the private sector threatened a "race to the bottom" that could cause benefits to diminish until reaching almost nothing.

Mr. Brainard also said that costs were a concern. In response, he said that in Fiscal Year 2008, public pensions accounted for only 2.9 percent of all state and local government spending. He commented that media reports had not recognized that fact. He stated that public pensions are in reasonably good shape and are able to meet obligations, but conditions vary and many are in need of reform.

Mr. Brainard also highlighted a *Public Employee Pension Transparency Act* (H.R. 567) that he said NASRA and several other state organizations oppose. He said the Congressional bill would require public pension plans to disclose certain plan information to the U.S. Treasury Department. He said that NASRA and other state organizations have argued that the bill represents an inappropriate and unneeded federal intrusion into public pension plans and states' rights.

Rep. Kennedy asked about state activity regarding cost-of-living adjustments (COLAs). He also asked how many states were considering moving toward defined-contribution (DC) systems. Mr. Brainard answered that between two-thirds and three-fourths of states provide an automatic COLA, and that the other states provide ad hoc COLAs when they can afford them. He said that almost every state had looked at moving to DC plans over the last 20 years, but only two had implemented DC-only systems. He said that Alaska has offered DC plans to all new hires since 2006 and that Michigan offers DC plans for state employees only.

Rep. Keiser questioned at what point a private company is required to infuse cash into its DB plan. Mr. Brainard said that corporations must be in a position to pay off unfunded liabilities within a seven-year period. He added that corporations make annual contributions based on a federally directed formula. There is nothing, he said, that requires a state or local government to infuse cash into its pension plan.

After further discussion, Sen. Hall asked whether H.R. 567 is a first step toward federal oversight. Mr. Brainard said that the legislation's purpose could range from a warning to the states to get their pension acts together, to a genuine effort to regulate state and local government pension plans.

ADJOURNMENT
There being no further business, the meeting adjourned at 3:15 p.m.