NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
FINANCIAL SERVICES & INVESTMENT PRODUCTS
NASHVILLE, TN
NOVEMBER 23, 2013
MINUTES

The National Conference of Insurance Legislators (NCOIL) International Insurance Issues Committee met at the Hilton in Nashville, Tennessee on Friday, November 23, 2013 at 8:30 a.m.

Rep. Tommy Thompson of Kentucky, acting chair of the Committee, presided.

Other members of the Committee present were:

Rep. Greg Wren, AL	Sen. Carroll Leavell, NM
Sen. Jason Rapert, AR	Rep. Bill Botzow, VT
Sen. Travis Holdman, IN	Rep. Kathie Keenan, VT
Rep. Joseph Fischer, KY	Rep. Michele Kupersmith, VT
Rep. George Keiser, ND	Sen. Mike Hall, WV

Other legislators present were:

Sen. Brian Bushweller, DE	Sen. Jerry Klein, ND
Rep. Peggy Mayfield, IN	Sen. David O'Connell, ND
Rep. Ronald Crimm, KY	Rep. Robert Hackett, OH
Rep. Joseph Fischer, KY	Rep. Brian Kennedy, RI
Rep. Steven Riggs, KY	Rep. Michael Gambrell, SC
Rep. Janice Cooper, ME	Sen. Robert Hayes, SC
Sen. Geoff Gratwick, ME	Sen. Ann Cummings, VT
Assem. Paul Aizley, NV	Rep. Warren Kitzmiller, VT
Assem. William Barclay, NY	

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Candace Thorson, Nolan Associates, NCOIL Deputy Executive Director
Jennifer Webb, Nolan Associates, NCOIL Director of Legislative Affairs – DC

MINUTES

After a motion made and seconded, the Committee voted unanimously to approve the minutes of its July 13, 2013, meeting in Philadelphia, PA

DODD-FRANK IMPLEMENTATION

Julie Gackenbach of Confrere Strategies stated that federal regulators are near completion on the Volker rule, which puts limits on proprietary trading. She said that drafting the rule had been a laborious process. She said the Volker rule should take effect in July 2014, but the effective date may be pushed back.

Ms. Gackenbach said that the Collins Amendment and Basel III standards are important to the insurance industry. She stated that Ms. Janet Yellen, incoming head of the Federal Reserve Bank, was questioned at length about both of these issues during a recent Congressional hearing. She stated that Ms. Yellen indicated her understanding that a single bank-centric standard may not be functional for the insurance industry.

Ms. Gackenbach said that Senate Bill 1369, currently pending in the U.S. Senate would set specific limits on Dodd-Frank regulatory standards and authority as it relates to insurance. She said the bill has 20 co-sponsors and has received a fairly positive response thus far. She said that the industry is united on all fronts that bank centric standards should not apply to insurers, but the current climate in Washington, D.C. is difficult for passing any sort of legislation.

Ms. Gackenbach stated that the newly released Basel III standards deal mostly with a liquidity standard. She said that the standards are currently in a 90-day comment period. She said that the standard is controversial, but the regulators are generally in agreement on the standards.

WHITE HOUSE DRAFT CYBER-SECURITY FRAMEWORK

Chara Bradstreet of the National Association of Insurance Commissioners (NAIC) said that in February 2013, President Obama issued an executive order outlining the Administration's commitment to take action on cyber-security. She stated that the National Institute of Standards and Technology (NIST) is developing standards for companies and agencies to consider applying in order to manage their cyber risks. She said that the draft framework was released for comment in October and that the Administration hopes to issue a final set of standards in February. She said the preliminary cyber framework is organized into five areas, including, identify, protect, detect, respond, and recover.

Ms. Bradstreet said that the NAIC is a member of the Financial Banking and Infrastructure Committee (FBIC), which is a collection of federal and state agencies with a vested interest in cyber-security policy. She stated that FBIC will be working with NIST on the cyber-security standards.

Frank O'Brien of the Property Casualty Insurers Association of America (PCI) said that cyber-security is an important emerging issue in the insurance industry, both from the perspective of protecting company and insurer data and providing cyber-insurance for companies who might be the target of a cyber-attack. He said that as all industries rely heavily on data and systems become more inter-connected, cyber risks increase exponentially.

Mr. O'Brien said that over the past few years, cyber issues have received lots of legislative attention, but that nothing had passed in Congress. He said current focus is on potential for economic damage from an attack on the financial sector as well as potential impacts on any attacks on critical infrastructure, such as energy and transportation systems.

Mr. O'Brien stated that the February 2013 executive order is an important step toward protecting our country's critical infrastructure. He said that the order requires a collaborative effort between the government and the private sector. He said the executive order sets up a broad program among federal agencies and creates a voluntary framework for the private industry to manage cyber vulnerabilities. He said an incentive program may be added to encourage companies to adopt the framework. He stated that the incentives could involve encouraging companies to take up cyber-insurance.

Josiah Wilkinson of Nationwide Insurance stated that there are both positives and negatives regarding the framework. He said that Nationwide has worked with various industry groups to provide extensive input on the framework. He said that the framework takes an excellent risk-based approach and has been a collaborative private-public partnership thus far. He said however, there are multiple negatives such as:

- The framework is long and extremely complex, which is likely to inhibit adoption by small businesses.
- The status of the incentive program is not defined and may not ultimately materialize in an effective format.
- There is no clarity over what adoption of the framework will mean as far as auditing requirements, etc.

- The framework includes prescription data tracking requirements, which have implications on privacy and civil liberties.

Sen. Rapert asked what the on-the-ground impact of this framework will be on small business. Mr. Wilkinson said that the biggest concern on the business side is whether the implementation of the framework will be disruptive to business. He stated that some of the monitoring and other requirements could be overly burdensome, causing companies not to comply with the voluntary framework.

Rep. Botzow asked if state attorney generals were involved in the process. Mr. Wilkinson said that participation varies by state, but that various representatives of law enforcement are involved in the framework consultation process.

SAFE RETIREMENT ACT

Rep. Thompson stated that the National Conference on Public Employee Retirement Systems wanted to send a representative to speak on Title I of Senator Oren Hatch's SAFE Retirement Act, Senate Bill 1270, which deals with public pension reform. He said, however, that they were unable to do so and had submitted a written comment instead. He noted that the written comment had been distributed to committee members.

Kate Kiernan of the American Council of Life Insurers (ACLI) discussed the private pension reform portions of Senate Bill 1270. She said that one prevalent policy issue in America today is encouraging employers to offer retirement plans. She stated that encouraging small employers to adopt pension plans can be difficult, given the high cost of regulation and plan administration. She stated that ACLI supports the SAFE Retirement Act because it would help to ease the administrative and cost burden and make the plans easier for small employers to adopt.

MUNICIPAL BOND INSURANCE DEVELOPMENTS

Bruce Stern of Assured Guaranty discussed the state of the municipal bond insurance industry in the wake of the Detroit bankruptcy. He stated that bond insurance results in a lower interest rate on debts, which has saved municipalities over $40 billion. He said that the Detroit bankruptcy process may see certain bonds not honored. He said that as municipalities enter bankruptcy, not honoring the obligations on bonds could cause higher interest rates on municipal debts across the country and paralyze the municipal debt market.

PENSION DE-RISKING MODEL ACT

After a motion made and seconded, the Committee voted unanimously to suspend the rules in order to initially consider a proposed *De-Risking Model Act*, which had not been submitted in accordance with the 30-day rule.

Rep. Keiser stated that pension de-risking is a policy issue that NCOIL should discuss and upon which it should take a leadership role. He said that pension de-risking has been on the uptick in the private sector. He stated that he is introducing the bill for discussion so NCOIL can determine what process should be followed to ensure appropriate consumer protections are in place regarding de-risking transactions.

Bill Jones of the Association of BellTel Retirees (ABTR) stated that last year Verizon removed over 40,000 employees from their pension plan through a de-risking transaction. He said that his pension was subject to de-risking, or "pension stripping", and it is irresponsible for companies that promise a pension program as part of a total compensation package to transfer it to a third party and go back on their word.

Edward Stone, special counsel for ABTR said that ABTR does not oppose de-risking, but believes that the transferred pensions must be afforded certain protections. He said that Congress intended certain privately-offered pension plans to have protections under the Employee Retirement Income Security Act (ERISA). He said that state law protections reasonably equivalent to ERISA need to be in place and currently state law protections are not uniform. He said lack of uniformity is an issue because individual retirees do not know what protections their de-risked pensions have if the retiree moves between states.

Mr. Stone stated that those protections include (1) requiring some form of third party guarantee for coverage due to disruptions or payment shortfalls as a result of provider insolvency, (2) mirroring coverage provided by the Pensions Benefit Guaranty Corporation under ERISA, (3) the ability for retirees to opt out of the de-risking transaction in favor of a lump sum payment, (4) protections from certain creditor claims, (5) required disclosures, and (6) state regulatory approvals.

Ms. Kiernan stated that group annuity contracts, which replace pensions when they are de-risked, have been offered since the 1920s and are very regulated at the state level. She said the state solvency protection system is a premier system that is equal to, if not better than, the federal ERISA protections. She stated that ACLI does not believe there is a need to legislate in this area.

Craig Hanna of the American Academy of Actuaries (AAA) stated that the motivations for looking into pension de-risking are well founded. He said that the AAA has concerns over ERISA preemption issues, marketplace viability issues, and technical reporting issues regarding the model law that Rep. Keiser put forward.

CONSIDERATION OF PROPOSED 2014 CHARGES

Upon motion made and seconded, the Committee unanimously adopted the proposed 2014 charges:

- Continue to examine Dodd-Frank Act implementation/impacts (e.g. FIO, FSOC, etc.)
- Monitor state and federal lender placed insurance issues
- Continue to explore impacts of the financial crisis on the bond insurance market/municipalities
- Explore potential impacts of state and federal pension reform efforts
- Examine the emerging cyber-insurance market and cyber-security concerns and initiatives

ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 a.m.

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