

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL - NAIC COMMITTEE
TAMPA, FLORIDA
DECEMBER 11, 2020
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue Committee met at the Tampa Marriott Water Street Hotel on Friday, December 11, 2020 at 10:45 A.M. (EST)

Assemblyman Ken Cooley of California, NCOIL Vice President and Chair of the Committee, presided*.

Other members of the Committee present were (* indicates virtual attendance via Zoom):

Rep. Martin Carbaugh (IN)	Sen. Paul Utke (MN)
Sen. Travis Holdman (IN)	Rep. George Keiser (ND)*
Rep. Matt Lehman (IN)	Sen. Shawn Vedaa (ND)
Rep. Joe Fischer (KY)	Sen. Bob Hackett (OH)*
Rep. Michael Webber (MI)	

Other legislators present were:

Sen. Mike Gaskill (IN)	Asm. Kevin Cahill (NY)*
Rep. Peggy Mayfield (IN)*	Sen. Jim Seward (NY)*
Rep. Jim Gooch (KY)*	Rep. Wendi Thomas (PA)*
Rep. Kevin Coleman (MI)	Rep. Joe Schmick (WA)*
Rep. Brandt Iden (MI)	

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Will Melofchik, NCOIL General Counsel
Tess Badenhausen, Assistant Director of Administration, NCOIL Support Services, LLC

QUORUM

Upon a motion made by Sen. Travis Holdman (IN), NCOIL Immediate Past President, and seconded by Rep. Martin Carbaugh (IN), Vice Chair of the Committee, the Committee waived the quorum requirement without objection by way of a voice vote.

MINUTES

Upon a motion made by Rep. George Keiser (ND) and seconded by Rep. Carbaugh, the Committee voted without objection by way of a voice vote to approve the minutes from the Committee's September 25, 2020 meeting.

UPDATE ON STATE ADOPTION OF AMENDED NAIC CREDIT FOR REINSURANCE MODELS

Asm. Ken Cooley (CA), NCOIL Vice President and Chair of the Committee, began with an update on State adoption of the amended National Association of Insurance Commissioners

(NAIC) Credit for Reinsurance Models. After much hard work, the NAIC adopted amendments to its Credit for Reinsurance Model Law and Regulation in order to incorporate certain provisions of the Covered Agreement between the U.S. and European Union, and a similar Covered Agreement between the U.S. and United Kingdom. Both NCOIL and NAIC have also been tracking each state's adoption of the Models, as well as listing all states' progress on both organizations' websites. There is also a handout that has been posted on the NCOIL website and on the conference app which shows a map of which states have adopted the Models.

Asm. Cooley stated that at NCOIL's last meeting in September in Alexandria, his home state of California had recently adopted the Model which he sponsored in the Assembly. Other states that have since taken action are New York and South Carolina. This topic has been on this agenda several times because of its importance to upholding the state-based system of insurance regulation. As a reminder, it is extremely important for states to adopt the Reinsurance Models, as amended, because pursuant to the terms of the Covered Agreements, U.S. state regulators risk federal preemption of state reinsurance laws unless the appropriate reinsurance collateral reforms are adopted into state law within 60 months from September 2017 – the date the Covered Agreement with the EU was signed.

Additionally, there is a separate, shorter 42-month deadline at which time the federal government will begin conducting an assessment of remaining non-compliant states. This will occur in February 2021. Both NCOIL and NAIC have been working hard to ensure that states adopt the Models so that there is no risk of federal preemption. Asm. Cooley stated that it will be very important for clerks in legislatures to provide legislators with all the deadlines on the Models and noted that the federal government may very well communicate directly with the NAIC on these issues. Asm. Cooley asked for an update as to how the NAIC's efforts have been progressing in terms of working with state legislatures to introduce and adopt this legislation.

The Honorable Glen Mulready, Oklahoma Insurance Commissioner, stated that before he provides an update on this issue, The Honorable David Altmaier, Florida Insurance Commissioner and incoming NAIC President would like to say a few words. Cmsr. Altmaier stated that he is looking forward to his term as NAIC President and stated that during his time as an NAIC Officer, an Insurance Commissioner, and a state insurance regulator, he has worked to ensure that the state based system of insurance regulation is protected. NCOIL and state legislative chambers across the country are committed to that goal as well and Cmsr. Altmaier stated that he looks forward to fostering and improving the collaborative relationship that NCOIL and NAIC have.

Cmsr. Mulready stated that at this point 16 states have adopted the Model with another 13 states having it under consideration. Many of the 13 states with the Model under consideration, including Oklahoma, had planned to adopt it this past session but that was interrupted due to COVID. The NAIC expects many of those states to adopt the Model during next session. Three states (CA, PA, VA) have adopted the Model regulation while four states (KS, MS, VT, WV) have the regulation under consideration. The NAIC anticipates more states adopting the regulation in 2020 as many states will be playing catchup on things that were paused last year due to COVID.

Cmsr. Mulready stated that the 2019 revisions to the Models implement the reinsurance collateral provisions of the Covered Agreements which require states to eliminate the collateral requirements entirely within five years by September 1, 2022 or be subject to federal preemption. The NAIC has adopted the 2019 revisions as an accreditation standard with the

effective date of September 1, 2022 which coincides with the date of when the Federal Insurance Office (FIO) may begin preemption of state laws for any state that is not in compliance with the Covered Agreements. However, the NAIC will not begin enforcement of the new accreditation standard until January 1, 2023. Accordingly, it is very important for state legislatures to take action on the Models.

Cmsr. Mulready stated that so far the NAIC has not had any interaction with either FIO or the EU about extending the deadline but the NAIC has had some preliminary discussions with FIO on the status of state adoption of the Models in order to keep them up to date. The NAIC's best guess is that neither FIO or the EU will agree to extend the deadline and that states will need to adopt the revisions by September 1, 2022 or face the federal preemption by FIO. Continued state action on the Models is the best defense against federal preemption and the NAIC appreciates NCOIL's support. Cmsr. Altmaier stated that this is a very important topic at the NAIC and everyone takes their job as a state insurance regulator very seriously particularly when there is a threat of federal preemption. The NAIC feels good about the progress states have made thus far with adopting the Models and looks forward to a very productive 2021.

Asm. Cooley stated that the point regarding no anticipated flexibility from FIO gets to the issue of state insurance regulators working with various federal Administrations. The Covered Agreements began with the Obama Administration and moved into Trump Administration and now we will be moving to a new Administration. Asm. Cooley asked how the NAIC has viewed working with past Administrations and what its hopes are for a productive relationship going forward. Cmsr. Mulready stated that it really is to be determined but the NAIC is very hopeful for a productive relationship going forward. Cmsr. Altmaier stated that the NAIC is anxious watching the appointments the administration is making in the critical areas related to insurance. In his experience he always looks to the 2008 Dodd-Frank reforms and as extensive as that was it mainly left intact the state based system and the federal government has mostly recognized that the system works and the NAIC will always work to maintain that.

Asm. Cooley stated that it will be interesting to see how it unfolds with the Biden Administration making appointments. As a sidebar, CA had a bill that the CA Attorney General was looking to expand that office's power with health insurance. Asm. Cooley disagreed with the bill and after a long conversation with him the bill was laid aside but the CA AG's litigation background will probably be an asset to expanding health coverage and Asm. Cooley thinks he will do a good job and it will be interesting to see how he evolves in that role. Cmsr. Mulready stated that the OK Department of Insurance (DOI) just went through its accreditation process and just recently received its 5 year accreditation. That was his first time going through the process and it is very robust to make sure there is prudent financial oversight over its domestics. Cmsr. Altmaier congratulated Cmsr. Mulready as that is indeed a robust process. The accreditation program has really been a testament to the state based system of insurance regulation and that will work to be maintained. Sen. Bob Hackett (OH) stated that OH passed the Model recently and all is need is the Governor's signature.

Rep. George Keiser (ND) stated that both NCOIL and NAIC of course support the state based system of insurance regulation but when you look at this issue it really is the latest example of the federal government coming in and putting a gun to the state's heads and saying either you do this and create uniformity on this issue or we'll take it away – that is not really traditionally the state based system of regulating as we have had incubators across the states doing different things. Rep. Keiser asked if the revisions are appropriate for a small state like ND as compared to CA. At what point do we say we need to limit this blackmail process relating to regulation as we are starting to gradually lose the state system with such an approach.

Cmsr. Almaier stated that with this issue he believes that the NAIC followed a similar process in striving for consistency of prudential oversight of firms, but this issue was a little unique because it related to the Covered Agreement which had been done for the first time. The NAIC was miffed at first that it wasn't more involved with drafting and negotiations but unfortunately once it was ratified by Congress it had to be dealt with. But the fact that the system was retained, albeit by the process as described by Rep. Keiser, and the Models reflect strong state based principles was an advantage. Certainly, the aspects of future Covered Agreements underscore the need to stay involved in the communications. Again, this was a little unique because of the international situations that led to the need for the Covered Agreement and Cmsr. Altmaier stated that makes him feel a little better rather than the federal government saying there was an outright problem with the state based system, and the Models ultimately were drafted by state insurance regulators in collaboration with state legislatures.

Asm. Cooley stated that the point made by Rep. Keiser is interesting as with the rise of technology we see a more interconnected world and we have seen the formation of the EU and the Basel Accords with imposed privacy requirements. There have been a lot of dramatic things on the global scene and as big as the US is we have had to learn to interact with our partners. This issue of the Covered Agreements relates to the heightened levels of global activity and goes to the strategic issue of having a strong NAIC in place to negotiate in D.C. and lawmakers can support that. From time to time of course state legislators may want to have a sidebar with state regulators but legislators have an interest in presenting a strong partnership to the federal government so they feel that they are working in tandem and they can rely on us to ensure they have a seat at the table and important issues are addressed.

We all have a lot to learn in the current Administration and we have a lot at stake to form relationships that are important to developing sound public policy. To Rep. Keiser's point, it is important to recognize the variation across the 50 states which is the genius of McCarran-Ferguson and we don't want to lose that. Rep. Keiser stated beware of the camel's nose beneath the tent. This is not the first time this has happened – it's about the fifth. It's time to have an honest discussion about this because it is not state based regulation. NCOIL should be cautioned on this as there will be more instances of this in the future and we need to ready to address them. Asm. Cooley agreed.

UPDATE ON PROPOSED CHANGES TO STATEMENT ON STATUTORY ACCOUNTING PRINCIPLE (SSAP) NO. 71

Asm. Cooley stated that when this Committee last met in September in Alexandria, it had a robust discussion on the NAIC's Statutory Accounting Principles Working Group's efforts to update Statement on Statutory Accounting Principle No. 71 titled "Policy Acquisition Costs and Commissions." For those who did not participate in that discussion, the proposed changes deal with something that is called "commission funding agreements" that some insurance companies enter into with third parties. The issue is generally whether the arrangement should affect the commissions that insurers pay to their agents under statutory accounting principles by deferring recognition of that liability. We heard differing opinions as to whether the proposed changes are substantive as opposed to non-substantive. And, we had discussions on the NAIC's use of "incorporation by reference" as is usually the case when legislators hear of substantive changes being made outside the normal legislative process.

Regardless of whether substantive or not though, it seemed clear to all that this change is more than a clarification and could have a significant impact on companies' financial condition. When we left Alexandria, we were told that the NAIC had received letters from at least one

Commissioner raising some concerns with the proposed changes which warranted further discussion. I also note that earlier this week, NCOIL CEO Commissioner Tom Considine sent a letter to the Chair of the NAIC's Working Group noting NCOIL's concerns with the proposed changes. Asm. Cooley asked is an update could be provided as to the status of the proposed changes, and what exactly happened after our discussion in Alexandria.

Cmsr. Altmaier stated that since the Committee has already discussed the specifics of the proposal, he will discuss the developments that have occurred since the Committee's last meeting. The NAIC re-exposed the potential revisions recently. The impact of that exposure most significantly is to move the effective date of the revisions. They were originally intended to be effective at the end of the year and the new effective date is to be determined and the NAIC will continue to go through its robust and transparent process to continue the revisions. Once they are completed the implementation date will be discussed. There will continue to be plenty of opportunities for stakeholders to engage on the revisions. The other development is that NAIC staff has been directed to draft an issue paper on the topic and it will essentially be a document to provide a historical reference on how the discussions have gone.

We have had some discussions among ourselves at the WG and Commissioner level about the substantive/non-substantive issue. The WG continues to feel strongly that they are non-substantive changes. The rationale for that is that the WG and Commissioners believes that the revisions are clarifying what is already the intent of SSAP 71 and the guidelines state that is the characteristic that determines whether or not a change is substantive or non-substantive. The NAIC has been told that some carriers may be impacted more than others. The NAIC is aware of four carriers that are utilizing these types of agreements that would be impacted.

The determination as to whether something is substantive or non-substantive is not necessarily the impact to the balance sheets of the carries but whether or not it represents a substantive change from the intent of the accounting principle so that is why this was designated as non-substantive. It is important to note that the designation of non-substantive versus substantive doesn't change the timing of the work as the revisions were started in 2019 and they have gone through multiple exposures and is currently in another exposure so even though it is designated as non-substantive there are still plenty of opportunities for dialogue and engagement. In terms of the IBR process, this will be consistent with how the NAIC has done other revisions to SSAP – the NAIC does not view this as changing public policy. Rather, the public policy is already there and this is viewed as an implementation of that.

Rep. Martin Carbaugh (IN), Vice Chair of the Committee, stated that this seems to be a solution for a problem that doesn't exist as he has not heard about it from any constituents or regulators in Indiana. Cmsr. Altmaier stated that the instigating event of the revisions was the result of an examination that was conducted by a state on at least one carrier, perhaps all four. It was discovered that the carriers were not accounting for the arrangements the way the NAIC thought that they should and as a result, the NAIC felt that their financial statements were materially misrepresented. While that may not trickle down to the consumer level, it does speak to the ability of state insurance regulators to be able to review accurate financial statements of carriers to ensure the consumers are protected not only by ensuring the viability of the carriers but also ensuring the level playing field of the market. Through that examination process, that issue was discovered and states were in communication with the carriers to correct it but there were some difficulties so the state regulators that discovered the issue felt that clarifying the guidance would be appropriate to prevent it from happening in the future.

Rep. Carbaugh asked if there has been any thought given to a phase-in period for the revisions so that the financial health of the companies could be taken into consideration. Cmsr. Altmaier stated that the NAIC has discussed at a high level a phase in period but given the small number of companies that are believed to have these agreements it was thought to be more appropriate for those carriers – and it is thought that the carriers are already doing so – to engage with their domestic regulators to work through the issues and perhaps allow that phasing-in. It didn't seem appropriate to allow a phase-in period to be built into the guidance because it doesn't seem to be a large number of carriers that have the agreements and it would therefore be better for the domestic regulators to work with the carriers individually. Rep. Carbaugh stated the revisions seem very substantive and not at all a clarification.

Sen. Travis Holdman (IN), NCOIL Immediate Past President, stated that he agrees with Rep. Carbaugh that the revisions seem to be very substantive and IBR once again rears its ugly head so it is important to be forewarned as these issues may once again come back in the future.

Asm. Cooley stated that he believes the issue paper will be very important to document the discussions that have taken place. As a lawyer who has had a lot of work in this area, we only have the words in the statute to work with to find intent. To take a proposal and declare its intent which is itself sort of amorphous and say this fits with that intent ergo it is not new – that is not the matter in which law is generally constructed. State legislatures don't operate that way. The mere fact that someone was an author in fact doesn't make their view definitive on what the statute says – it is what the words are; how are they stated; and how are they construed in ordinary English usage. That is where the intent comes. Lawmakers are concerned with what the state of the law is across the 50 states and how that impacts the private sector and businesses. The law can always be changed but not just because on balance of what is stated the intent was thought to be.

Cmsr. Altmaier stated that there are two SSAP's at play – no. 5 which defines liabilities and no. 71 which speaks to this issue. SSAPs have been clear from the outset that policy acquisition costs have to be incurred by the carriers upfront and that has been a fixture of account principles since they were drafted. The reason this was flagged during the examinations is that when state regulators saw these commissioned expenses, they were very clearly policy acquisition expenses that should be incurred by the carriers upfront. While some expenses from carriers can be contracted to third parties, policy acquisition expenses are not such expenses so the state insurance regulators at the time felt that those agreements were working around the statutory accounting requirement for them to be booked upfront so the NAIC believes that clarifying that was consistent with the original intent of the accounting principle which is why the revisions were designated as non-substantive. Cmsr. Altmaier stated that certainly, the NAIC has had discussions about the non-substantive versus substantive issue so he certainly respects both opinions on the issue.

With respect to IBR, every state does that a little different. Florida does so by rule and some states do it via statute and there probably are other mechanisms in other states. Cmsr. Altmaier stated that he will have to take the revisions to his Cabinet and they probably won't look at them specifically but they will be informed that the statutory accounting guidance is being amended. If the NAIC were to ever move away from statutory accounting, something that is not envisioned, certainly that would be considered a policy shift and a substantive change versus just implementing already existing policy. For now, the NAIC remains of the opinion that this isn't a change in policy but just implementing technical aspects of already existing policy. Cmsr. Altmaier stated that he is hopefully that the removal of the effective date and the issue paper will clarify a lot of things and set the stage for additional discussion going forward.

Rep. Carbaugh stated that if a commission is scheduled at 1% per year for six years, that is 6% so what the revisions are saying is that all 6% should be accounted for in year one. Is that correct? Cmsr. Altmaier stated that is his understanding as well and he would be happy to check with one of the NAIC's technical experts to make sure. One of the key principles of statutory accounting and one of the reasons why it was important to have that type of accounting versus something like Generally Accepted Accounting Principles (GAAP) is to make sure that it had a little bit more conservatism built in as opposed to GAAP in recognition of the fact that when an insurance company sells a product they aren't certain how much that product is ultimately going to cost them so the accounting framework should be reflective of that and give state regulators the ability to quickly identify carries that may run into financial concerns.

One of the principles that was established that is consistent with that conservatism principle is that things like those types of expense should be recognized upfront to give state regulators the ability to ascertain how much premium dollars need to be earned and if they start to level off if that becomes a financial issue for the carrier. Rep. Carbaugh stated that he doesn't follow the logic of that because if that's the case in his example, if the contact moves in year three and it moves to another company, they never paid the other 3% that had to be accounted for in year one – do they get a credit back? More generally, after 20 years of this, why now?

With regard to the latter question, Cmsr. Altmaier stated that first off, not many carriers are doing this. The NAIC is aware of four carriers so it wasn't something that become readily apparent to insurance regulators that was even occurring until a group of carries went through their examination process so that is why the issue has arose now. With regard to the first question, that is a little more dependent on the relationship the carriers have with their agents in terms of what they have determined with respect to commission payments. Cmsr. Altmaier stated that his understanding with the particular arrangements in question is that the third party pays to the agent the commissions upfront – the entire lump sum and then it's the insurance company that reimburses the third party over a period of time. Depending on the specific wording of those contracts, if the insured was to move to a different carrier the third party has still paid the full commission to the agent and as far as he knows the carrier is still obligated to reimburse that third party for the full amount and that is one of thing things that complicates attempting to answer that questions.

Rep. Carbaugh queried whether this pushes companies to pay for it all upfront if they have to account for it all upfront to get rid of the ongoing commission and if that's the case that is a 180 degree turn away from the securities industry that is pushing everything away from commissions upfront and into the fee based ongoing earn the business every year mentality which is better for consumers. Cmsr. Altmaier stated that his gut reaction is that probably not because the majority of carriers are not utilizing these types of agreements so they continue to have the same commission structure and the accounting treatment its always had. Accordingly, given the fact that not many carriers utilize these types of agreements ultimately these changes to no. 71 should not have a material impact on the majority of the marketplace. Cmsr. Altmaier stated he is happy to discuss this further with Rep. Carbaugh.

Asm. Cooley stated that this topic is obviously important to legislators and puts a spotlight on the general issue of what is the basis for law and regulation in the insurance industry and the intertwined nature of statutory adoption and regulatory adoptions and at the end of the day each state regulator derives authority from state statutes – there is no other source of authority and as much as the NAIC has grown in size and significance, it's authority is strictly derived from state law so we must be partners. The change in the implementation date is a good one and

leaves the conversation a little more open ended in the background work on the thinking that has underscored the action.

DISCUSSION ON NAIC'S SPECIAL COMMITTEE ON RACE IN INSURANCE

Asm. Cooley stated that NCOIL concluded the first meeting of its Special Committee on Race in Insurance Underwriting on Wednesday. The Committee had very productive discussions on the background on insurance industry ratings regulations; a definition of "proxy discrimination"; and the examination and consideration of various insurance rating factors. Asm. Cooley stated that he thinks we can all agree that the Chair of the Committee, Senator Breslin, and NCOIL President, Representative Lehman, did a great job in facilitating the discussions surrounding topics that are indeed not always easy to discuss.

Cmsr. Considine stated that he would like to briefly address the last issue discussed and comment on IBR. NCOIL holds out Florida's IBR process as the gold standard of how it should be done. If every state conducted the process in that manner NCOIL as an organization and the legislative members almost without exception wouldn't have an issue with it. By taking the items that go through the IBR process and putting them through the official regulatory process, that is considered to be the gold standard.

Rep. Matt Lehman (IN), NCOIL President, stated that he thought yesterday's meeting was very productive with speakers with different perspectives providing data-drive information. Rep. Lehman thanked Sen. Breslin for navigating through the meeting. NCOIL will process everything and then set a course of action. Rep. Lehman stated he is looking forward to continuing to work with NAIC. Rep. Lehman noted that he and NAIC President South Carolina Insurance Director Ray Farmer started their respective terms as NCOIL and NAIC President, they never thought they would have as much communication as they did this year on a wide array of issues. Rep. Lehman thanked him for that and stated that he is looking forward to working with Cmsr. Altmaier. It will be interesting to see where the data takes NCOIL on these issues.

Asm. Cooley asked if an update as to how the NAIC's Special Committee on Race in Insurance is structured, what its goals are, and what it has already accomplished. Cmsr. Altmaier stated that the NAIC's work stream started in the summer and they are in a similar posture in that they didn't expect to have these conversations in the beginning of the year. The Committee invites any Commissioner who would like to participate to do so. Normally, these types of committees have about 15-20 members but this Committee is up to 53 of 56 jurisdictions as members which underscores the importance that members have placed on these issues. The Committee is co-chaired by Dir. Farmer and Cmsr. Altmaier and the co-Vice Chairs are NAIC Vice President and Idaho Insurance Director Dean Cameron and NAIC Secretary Treasurer and Missouri Insurance Director Chlora Lindley-Myers. It is no accident that the two co-Vice Chairs are the other two NAIC officers. It is great to have 53 members of the committee but that also makes things a little more challenging to get work done when you have such a large group of people so that has been broken down into five work streams.

The first two are focused on researching the level of diversity and inclusion within the insurance industry (1). Work stream number two is the same effort except that it focuses on the NAIC and the state insurance regulatory community. The third, fourth and fifth work streams look at what barriers might exist in the insurance sector that potentially disadvantage people of color and historically disadvantaged groups within the P&C industry (3), life and annuities industry (4), and the health insurance industry (5). The work streams have all been working very hard throughout

the summer and the full committee has had two public meetings the most recent one being at the NAIC Fall National meeting last week. At that meeting, the Committee heard updates from the five work streams and they have reported some of the work they have been working on. The committee anticipates the work streams providing initial reports by the end of the year that includes their findings and initial recommendations to the committee. The initial recommendations will be more like recommending of things to further explore in 2021 and perhaps new work streams will be developed going forward.

Internally, the NAIC has demonstrated commitment to lead by example in this area and has just hired a director of inclusion and formed an employee based council on these issues that will be working with NAIC mgmt. and members on driving some of these cultural transformation efforts. We are all very encouraged by the discussions taking place on these issues at NAIC, NCOIL and everywhere else. NAIC is looking to being collaborative and discussing these issues in 2021.

Asm. Cooley stated that his recollection is at the start of each year each Committee would identify its goals for the year. Is it the thought that some of these topics may feed into that priority setting for the various NAIC committees? Cmsr. Altmaier replied yes and said if 2020 has taught us anything at NAIC you have to be ready to pivot your priorities as they are different now than what they were at the beginning of 2020. The NAIC did specifically note when adopting the charges for the letter committees that they haven't changed the charges for the Special Committee but anticipate revisiting those charges and the changes for the letter committees reflective of the work that the Special Committee does generate in their reports. Updating the charges of committees is a very transparent process and the changes always go through stakeholders so everyone is apprised of the changes as they occur.

Asm. Cooley asked again regarding the timing of the anticipated findings. Cmsr. Altmaier said at the end of the year the work streams report to special committee and then the special committee probably will have a discussion about how to best go about exploring those recommendations whether it be assignments to existing committee structure, or have work streams work on it themselves. That has already been flexible as the original hope was to have stuff ready by the Fall meeting but there was a sense that more time was needed. Quality over timing is more important. Asm. Cooley asked if the Committee meetings are public. Altmaier said when they get to the point of documenting recommendations and determining next steps the anticipation is that there will be transparency. It will most likely be virtual and there have already been a couple of public Zoom meetings.

DISCUSSION ON NAIC MARKET CONDUCT ANNUAL STATEMENT (MCAS) BLANKS (D) WORKING GROUP INITIATIVES

Asm. Cooley stated that an issue that has caught the attention of NCOIL is the work of the NAIC's MCAS Blanks Working Group. For those unfamiliar with the term "market conduct annual statement" (MCAS): the goal of the MCAS project is to provide a uniform system of collecting market-related information to help the states monitor the market conduct of companies. The Working Group has been discussing a MCAS reporting approach submitted for consideration by the Center for Economic Justice that would implement a transactional-level reporting approach for travel insurance as opposed to the historically used summary reporting approach. It appears the move to even more transactional level reporting will make completion of this "statement" more burdensome. Asm. Cooley asked if someone could walk the Committee through the NAIC's process for any changes in MCAS reporting and the status of the Working Group's initiatives.

Cmsr. Mulready stated that the market conduct information that is gathered is typically things that state analysis wouldn't be able to obtain on a financial annual statement or another sources – things like policy renewals; surrenders; replacements; cancellations; claims payments and denials; complaints and lawsuits. This year, the WG is focused on travel insurance and health insurance products such as short term limited duration insurance (STLDI). They are drafting the blanks for those as we speak. The process of creating a blank is a collaborative effort which involves regulators, industry and consumer reps. As mentioned, consumer reps have been pushing for the collection on a transactional basis.

During the drafting of the STLDI blanks, one of the consumer reps suggested that the WG consider piloting the STLDI blank as a transactional level market conduct annual statement. The STLDI drafting group raised the discussion to the blanks WG which considered the suggestion during its September meeting. During its October meeting, the WG heard a presentation from NAIC IT staff concerning the resources, time and effort needed to collect that information on a transactional basis. After discussion at the November meeting, the MCAS Blanks WG decided against pursuing a transactional pilot for this. The decision was reported to the market regulation and consumer affairs committee during the fall national meeting although they have left it open for further discussion down the road although Cmsr. Mulready stated he is not sure how much energy is behind that. The D Committee adopted the WG report and agreed with the decision to not proceed with the collection of transactional data in the MCAS blanks WG.

Asm. Cooley stated that it's sort of an explanation of the expression laws are ideas that require a following and not every idea gets a head of steam behind it so it sounds like there were internal discussions on this and several things were looked at like resources implications, pros and cons, and at a general level the gains to be had versus the cost of implementing it and resources spent and the idea has been set aside for the time being although you cannot un-ring the bell so at some point it might come back.

Cmsr. Altmaier thanked the Committee for the opportunity and said he is committed to furthering the NAIC's collaborative relationship with NCOIL.

ADJOURNMENT

Upon a Motion made by Rep. Carbaugh and seconded by Rep. Lehman, the Committee adjourned at 12:00 p.m.