

NATIONAL COUNCIL OF INSURANCE LEGISLATORS
NCOIL – NAIC DIALOGUE
CHARLESTON, SOUTH CAROLINA
APRIL 16, 2021
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) NCOIL – NAIC Dialogue met at the Francis Marion Hotel on Friday, April 16, 2021 at 2:15 P.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):

Sen. Jason Rapert (AR)
Rep. Matt Lehman (IN)
Rep. Joe Fischer (KY)
Sen. Paul Utke (MN)*

Sen. Bob Hackett (OH)
Del. Steve Westfall (WV)

Other legislators present were:

Rep. Deborah Ferguson (AR)*
Sen. Mathew Pitsch (AR)
Rep. Matt Dollar (GA)
Rep. Terri Austin (IN)
Rep. Jim Gooch (KY)*
Rep. Daire Rendon (MI)
Sen. Lana Theis (MI)*
Rep. Justin Hill (MO)

Sen. Paul Wieland (MO)
Sen. Walter Michel (MS)
Asm. Kevin Cahill (NY)*
Rep. Forrest Bennett (OK)
Rep. Wendi Thomas (PA)*
Sen. Ronnie Cromer (SC)
Rep. Jim Dunnigan (UT)

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 Rep. Matt Lehman (IN), NCOIL President, and seconded by Rep. Joe Fischer (KY), NCOIL Secretary, the Committee waived the quorum requirement without objection by way of a voice vote.

MINUTES

Upon a Motion made by Rep. Fischer and seconded by Rep. Lehman, the Committee voted without objection by way of a voice vote to approve the minutes from the Committee's December 11, 2020 meeting.

DISCUSSION AND UPDATE ON STATE ADOPTION OF AMENDED CREDIT FOR REINSURANCE MODELS

Before beginning with the agenda, Asm. Cooley stated that as we participate here today in a hybrid format with people participating via Zoom while others are in Charleston, it illustrates that COVID-19 has forced everyone to adapt to these unprecedented times. In the insurance context, both insurance legislators and regulators had to adapt legislation and regulation in recognition of the reality that changes had to be made to allow for businesses to operate and ensure consumers are protected. NCOIL has been following the work that the NAIC has done in this area in terms of listening to feedback as to what regulations should be changed or temporarily altered such as in the areas of electronic testing for producers, and the NAIC should be applauded for its work.

Asm. Cooley then recognized NAIC President and Florida Insurance Commissioner David Altmaier for introductory remarks. Cmsr. Altmaier thanked the Committee for the opportunity to have these discussions today and stated that the NAIC has long valued its partnership with NCOIL and the discussions that have taken place over the years. There are clearly a number of issues to discuss today that are going to impact insurance consumers in all states and the partnership between the legislative and executive branches is going to be crucial in addressing these issues.

Asm. Cooley then began with discussions on the agenda, beginning with an update on state adoption of the NAIC's amended credit for reinsurance model law and regulation. The topic has been on this agenda several times because of its importance to upholding the state-based system of insurance regulation. As a reminder, the amendments to the Models were adopted due to certain provisions of the Covered Agreements between the U.S. and European Union, and U.S. – and United Kingdom. States must adopt the amended Models to avoid federal preemption of state reinsurance laws within 60 months from September 2017 – the date the Covered Agreement with the EU was signed. Also, there was an assessment recently conducted by the federal government of the remaining non-compliant states. Asm. Cooley asked for update as to how the NAIC's efforts have been progressing in terms of working with state legislatures to introduce and adopt this legislation.

South Carolina Insurance Director and NAIC Immediate Past President Ray Farmer stated that this is an extremely important issue to the NAIC and NCOIL alike. The NAIC is making good progress. Last year was a little bit of setback due to COVID but some pressed on and passed the amended models so they didn't have to do that this year. The numbers are changing daily and we are up to 26 states that have had the model law signed into law and four states have such legislation currently pending on the Governor's desk, including Florida, as we expect some of those to be signed as early as next week. We have 18 or 19 others that have it under consideration so that number should be added to at the end of the year. Dir. Farmer stated that no one gets any credit for the delay caused by COVID so everyone is pressing on and as far as he knows there have been no discussions with the Federal Insurance Office (FIO) or anyone else about extending the deadline and we are aware that FIO has been starting to look over the states' shoulders to see how everyone is doing.

Asm. Cooley stated that this continues to be a priority for NCOIL to urge its member states to get this work done so that the requirements of the covered agreements are established and it is incumbent upon state legislators to focus attention even during the time of disrupted operations in state legislatures to get this work done.

NAIC SPECIAL COMMITTEE ON RACE IN INSURANCE ISSUES

a.) Update on Special Committee Activity

Asm. Cooley stated that the third meeting of NCOIL Special Committee on Race in Insurance Underwriting concluded yesterday. The Committee has been busy defining “proxy discrimination” from the standpoint of state lawmakers and discussing insurer’s use of certain rating factors in underwriting. NCOIL has been closely following the NAIC’s Special Committee on Race in Insurance. Asm. Cooley asked for update as to Committee’s progress and timeline.

Cmsr. Altmaier stated that the NAIC’s Special Committee has indeed been very busy and as we all know, the Committee was formed last Summer under the leadership of Dir. Farmer and focused on five workstreams up to this point. There is one workstream each for diversity and inclusion in the insurance industry as well as in the insurance regulatory departments and at the NAIC and the other three workstreams are related to each of the three major areas of business – health, life and P&C. The full Committee has had three public meetings, the most recent one being last Tuesday in conjunction with the NAIC’s spring national meeting. At that meeting the Committee heard status updates for each of the five workstreams and each workstream submitted a report that included recommended next steps or charges for the committee going forward. There was some really good discussion during that meeting with a broad spectrum of stakeholders and the NAIC appreciates the letter sent by NCOIL which will be discussed in a moment.

The NAIC currently has a draft set of charges that are exposed for a 30 day period that began this last Wednesday so that concludes on May 14 at which point Cmsr. Altmaier anticipates some additional discussions with respect to that. Just to underscore, the NAIC is certainly committed to having a very thoughtful and deliberative process with respect to these issues such as unfair discrimination, unfair bias, proxy discrimination, disparate impact – these are all very complex issues so while progress is important we need to make sure we are being deliberative in order to avoid having unintended consequences in our markets. State insurance regulators have been discussing these issues frequently. For example, last August the NAIC adopted a set of guiding principles on artificial intelligence (AI) and they included a non binding concept encouraging industry participation to take proactive steps to avoid proxy discrimination against protected classes when using AI platforms. The NAIC looks forward to more work of that nature continuing across its letter committees, executive level task forces and special committee.

The NAIC is aware that NCOIL is working to define proxy discrimination and several good discussions have taken place. Cmsr. Altmaier stated that he feels compelled to offer some initial perspectives from some of the NAIC’s members who have raised some concerns with respect to the direction of that at this point as essentially re-stating current laws that already prohibit intentional discrimination and might not take into account the technological evolution that’s taking place in the insurance sector and the concerns surrounding the affordability and availability of products to individuals of certain demographics. The NAIC looks forward to continuing engagement on that as it works through its own process and NCOIL works through it’s as well. The NAIC intends to continue working on these issues as it views this as a very long term project and we don’t think there will be a lot of short term deliverables and there will be significant opportunities for engagement and collaboration.

b.) Discussion on NAIC Closed Meeting Process

Asm. Cooley stated that he thinks a big question is partly a process question and to use an analogy from the CA legislature – as COVID hit, it forced a change in its typical procedures and how hearings operated and how people participated and social distancing. This actually led to

the legislature going back and examining the state constitution for the rules it laid out for how these bodies conducted itself. The legislature is a body subject to rules which it has to adhere to and it constrained its options in order to comply with the constitution. With respect to the process the NAIC has established there are some basic questions as to how this conversation relates to precedence in the organization as there is no language in NAIC bylaws for a special committee – it has working groups, task forces, and committees. Open and public record rules don't relate to the work of a special committee. The idea that a constructed special committee would be a coordinating body is unclear as to what exactly that means and where the authority comes from in NAIC organizational documents just as how the CA legislature had to ask itself how it conducts its business. Accordingly, the general question is tracing the authority and the foundation for discussions because that gets into what is the basis for calling a closed session. Asm. Cooley asked for comments on those issues.

Cmsr. Altmaier stated that the NAIC does have an official policy on open meetings and the special committee is subject to the terms of its open policy proceedings. Taking on the question of the title of the committee – special committee was just simply a title that the NAIC used to underscore the importance of the work – outside of that special committee has no special treatment with respect to how the NAIC governs its operations. The NAIC is treating the special committee for purposes of how its processes are governed essentially the same as it would treat any other executive level task force. Special committee was just simply a way of addressing that the issues are ones of critical mass importance to the NAIC. That being said, the NAIC and its workstreams have had a blend of public and open meetings as well as closed meetings. The NAIC felt very comfortable that the closed meetings met one or more of the criteria that are contained in the NAIC open meetings policy with respect to the ability to close into a regulator only session. It's important to note that at no point were any decisions made during a closed meeting – all of the things proposed have been discussed in open and transparent meetings and have been exposed for additional comments forms stakeholders as the NAIC does for any number of regulatory items.

With respect to the coordinating aspect of the special committee, this work will cut across a broad spectrum of the insurance segment and therefore will cut across a broad spectrum of ongoing NAIC workstreams particularly with respect to the work that's ongoing at its letter committees. The NAIC has characterized this as a coordinating body in an effort to make more efficient and streamline the work that is already ongoing so that there are no redundancies in the process and hopefully make that process a little bit more efficient.

Asm. Cooley stated that typically the way organizations exist is that you have bodies which assign work to committees which is a delegation, and the delegation is what it is until its gets revised. Most typically it seems in his experience with the NAIC that the assignment of duties comes through the executive committee process so it still doesn't really answer what differentiates a special committee that they have the authority to modify work delegated by the executive committee. It seems that the NAIC has a body that is poised to provide a great deal of direction across the NAIC that is differentiated from the executive committee where most matters of structure are decided. When you look at the definition of the NAIC executive committee, its role is to assign and set up the structure and assign the work so it seems that the NAIC has a special committee that is doing the work of the executive committee without an explanation as to how that is done. Asm. Cooley stated that he believes its analogous to how in CA they needed to reexamine how its meetings were conducted to determine how it aligned with law because that is the foundation of everything.

Cmsr. Altmaier stated that, to be clear, the special committee does have charges that have been assigned to it by the executive committee. The executive committee has approved and delegated to the special committee the charges that it is currently overseeing. The charges that have been exposed by the special committee, once they have been approved or adopted by the special committee following its normal process, those will also go to the executive committee to be approved by that body as well. That is a process the NAIC has followed with all of its other executive level task forces and so charges that are being delineated to other NAIC workstreams will go through that executive committee process like they have done historically. So, even though it is called a special committee it is being treated the same way as the NAIC would treat an executive level task force. The NAIC anticipates that once the charges have been approved by the executive committee, the letter committees that are assigned those will follow their normal process which has historically been very transparent and will continue to be so. Accordingly, Cmsr. Altmaier stated that he believes the special committee has been delegated charges in the same manner historically as other executive level task forces have in the past.

Asm. Cooley questioned whether historically, aren't discussions of charges in a public setting at various meetings? It's still unusual to call something internal matters and have a great deal of substantive work direction come out of it without public commentary. In CA the budget process is public and everything get exposed in conversation. Cmsr. Altmaier stated that each of the workstreams had public meetings with the exception of workstream two which is exploring diversity among the insurance departments so the NAIC did solicit public comments on the charges before it had the open discussion on Tuesday. The NAIC solicited public comments on those charges during that meeting and they are now engaged in a 30 day exposure period for the charges as they have been exposed. Cmsr. Altmaier stated that he believes that is very similar to what has been done in the past.

Sen. Jason Rapert (AR), NCOIL Immediate Past President, thanked all of the NAIC representatives for being here and used the opportunity of the open forum to ask what the status is at the NAIC of the model law they have been working on relating to pharmacy benefit managers (PBMs). Cmsr. Altmaier stated that his understanding is that at its last stop there was some discussions surrounding the PBM model and it went to the Regulatory affairs framework under its B committee and there were some pending items still to be discussed among regulators so a final vote was postponed. Sen. Rapert asked if the Model will encourage that PBMs be subject to insurance department regulation. Cmsr. Altmaier stated that he would have to check on that and then circle back. Dir. Farmer stated that it is open ended at this point but a number of states including South Carolina have enacted legislation requiring PBMs to be regulated in the department of insurance. Sen. Rapert stated that is good to hear and offered any assistance NCOIL can offer because despite of all the good things that have been happening with regard to PBM regulation, such as the NCOIL PBM Model Act, those entities continue to morph and do their best to avoid regulation. Sen. Rapert stated that he has no problem with people doing business, but he just wants them to do so fairly. Sen. Rapert states he appreciates the time and attention the NAIC has put on this issue as well as all the work legislators have done as well.

Cmsr. Altmaier thanked Sen. Rapert and stated that he recalled Sen. Rapert speaking during an NAIC meeting on the issue of PBM regulation and he made very insightful remarks. Commissioner Glen Mulready, Oklahoma Insurance Commissioner, stated that he believes the hang-up over the progress of the NAIC PBM model thus far relates to the drafting notes contained therein.

Asm. Cooley stated that obviously issues dealing with race are highly sensitive topics and that in his experience years ago the NAIC did have a coordinating body in the area of climate but he does not recall it as providing direction to the other committees. Asm. Cooley stated that he believes that in organizational life units get delegation and following and running the traps as to how decisions get made and how responsibilities are allocated really vest in the executive committee and when direction starts coming from other bodies that anomalous in the organization and he certainly thinks that in the time of COVID it is incumbent to provide for opportunities for comments which are meaningful time wise. Some of the associated timelines for comment in the special committee have been very short and that makes it very difficult for people to reflect upon what is being called a deliberative process. Commenters need opportunity for deliberation and that invariably takes time for reflection. Asm. Cooley stated that he thinks it is well to go back and look at the specifics of the NAIC public record documents and try to line it up with the bylaws and the role of the executive committee. The NAIC has taken a highly sensitive document and conjured up something that doesn't align with what the NAIC has done in the past and doesn't align with the NAIC's bylaws and public records. It's a level of improvisation on a topic of vast importance to our country that seems less than judicious given the long established workings of the NAIC through committees, working groups and task forces.

c.) Discussion on NYS DFS Circular Letter No. 5 (2021 Re: Diversity and Corporate Governance)

Rep. Lehman stated that about a month ago the New York Department of Financial Services (NY DFS) issued a circular letter to all New York domestic and foreign insurance companies which was "intended to support the industry's existing diversity, equity and inclusion (DEI) efforts and to outline DFS's expectation that New York-regulated insurers make the diversity of their leadership a business priority and a key element of their corporate governance." Specifically, the letter stated DFS will collect data from insurers relating to the gender, racial and ethnic composition of their boards and management including information about board tenure and key board and senior management roles.

Rep. Lehman stated that while increased DEI efforts should be applauded, there is a concern as to whether such efforts should be mandated by prudential regulators rather than by legislators. For example, in Asm. Cooley's home state of California, the boards of publicly traded companies based in the state are now required to have at least one racially, ethnically, or otherwise diverse director by 2021, but that requirement was imposed by the California legislature – not the California Department of Insurance. Accordingly, Rep. Lehman asked if the NAIC envisions more insurance departments following the lead of NY DFS and requiring certain information to be reported and made public. Rep. Lehman also asked since some of the work streams of the NAIC's Special Committee on Race in Insurance are focused on researching, analyzing, and making recommendations as to the level of diversity and inclusion within the insurance industry, does the NAIC plan to impose such reporting requirements on insurers and perhaps make it part of an accreditation standard?

Cmsr. Altmaier stated that this is an issue that is very similar to many other issues that the NAIC deals with in that while we certainly use the NAIC to strive for consistency across all states in terms of how we are regulating our market, certainly each state has jurisdiction over their state via their executive and legislative branches. While we will have these kinds of discussions with the special committee in its first workstream with respect to what are ways to explore increasing diversity and inclusion in the insurance space, there is nothing stopping a state like NY proceeding with its own efforts.

My Chi To, NY DFS Executive Deputy Superintendent, stated that she can provide an overview of the NY DFS recent guidance and explain its process that led to the issuance of the guidance. Supt. To acknowledged the open relationship that NY DFS has always had with Sen. Neil Breslin (NY), Chair of the NCOIL Special Committee on Race in Insurance Underwriting, with many insurance topics including diversity and inclusion. As was already mentioned, in mid-March a circular letter was issued that focused on diversity and corporate governance and was addressed to all NY domestic and foreign insurance companies operating in NY. The guidance was issued following extensive research and discussion with industry and that was intentional as it was very clear to NY DFS that it had to have a very collaborative approach and that's what they did. COVID did delay some discussions but by the end of the year the discussions were resumed. I would say that the result of all of the discussion with industry is that there are a lot of initiatives and significant commitment existing today in our industry in the companies we regulate on improving diversity in the industry and in these organizations. We framed our approach as what is the best way for us as regulators to support those existing efforts and existing commitments. The result of that inquiry is the circular letter that was issued.

To briefly sum the letter up, it really makes two points – it outlines an expectation that insurers make diversity a business and corporate governance priority. The letter doesn't say how insurers are supposed to do that and its deliberately not prescriptive. NY DFS considered many other approaches taken by other regulators in other states and countries including CA and its quota approach. NY DFS deliberately did not go in that direction and its approach was based on the studies and what's happening in the world including investor pressure on insurance companies and other companies to hold companies and businesses accountable for increasing diversity. We felt that this should be treated as a business priority as companies know how to implement their business priorities so NY DFS is not in the business of telling companies how to do that so that is why its not prescriptive. Interestingly, in its informal outreach by bouncing the letter around before formally issuing it to make sure that it would be well received by industry, some of the feedback from industry was that they would actually like some help around best practices because a lot of companies want to make an effort but have obstacles and don't really know how to do it. In response to that feedback nothing in the guidance was included on specific practices NY DFS expects companies to follow but it will host a webinar focused on best practices which we will invite industry to come to and share and learn from other people's experiences.

So number one outlines an expectation that insurers make diversity a business and corporate governance priority. Number two is an effort to collect and publish data relating to diversity of boards and management of companies, NY domestic and foreign companies. Why are we doing that – in our research we realize there is really no data that is specific to the insurance industry on diversity. Industry participants actually mentioned that to NY DFS as something that was lacking because the absence of data meant that companies didn't know where they stood compared to their peers. To remedy that and to increase transparency, NY DFS concluded that collecting the data and publishing it on an aggregate basis would be helpful to the industry because it would allow companies to see where they stand compared to their peers and we hope transparency will be a powerful motivator for companies below the average to strive to improve diversity.

NY DFS was concerned to not impose an undue burden with the data and collection on smaller companies so there was a cutoff of \$100 million in annual premiums to exclude some smaller companies that might find that collection overly burdensome. We're planning to collect data on the diversity composition of boards and senior mgmt. so not the entire workforce in order to focus on the top of the organization and to make the effort of not such a huge data collection

effort. We are planning to collect the data over the summer with the expectation that it will be published in the fall on an aggregate basis and the collection survey is designed to gather information on the type and size of insurer and other relevant factors so that it can be sliced and diced in ways that it hopes are useful to the industry.

We did encourage companies to disclose publicly this data as part of their DEI efforts but we are not mandating it so that was just a strong encouragement. Regarding the authority, from a NY perspective, our authority we believe exists both in the broad mission of our agency to promote the financial stability of our industry. We believe issues of corporate governance clearly fall within that purview. In fact there is a model law at the NAIC that is an accreditation standard on corporate governance that includes a question dealing with diversity policies so we really believe this falls within that scope of authority.

Rep. Lehman thanked Supt. To and said something that causes concern from a legislative standpoint is terms like investment pressure and putting pressure on companies to change. Rep. Lehman stated that he is also concerned about what NY DFS would do with a mutual company that doesn't have that investment pressure – what do you with privately held companies where the board is more or less their family members and not a diverse group. Are there any parameters that NY DFS would take into consideration to say we are not mandating this? The bulletin does say “first steps” which implies that second and third steps may be taken. As a legislator, what should I expect in terms of things being brought to me to be put into statutory code?

Supt. To stated that the data collection has a \$100 million cutoff but the guidance generally applies to all companies regardless of size and regardless of corporate form, either mutual or otherwise. I did mention investor pressure as just a data point that we considered understanding as you pointed out that certain types of companies are not going to have public investors and the basis of the guidance is a vast body of data around diversity makes a compelling case that increased diversity at the top of organizations is good for business. There is a lot of detail in the letter and as financial regulators focused on strong financial performance of companies that is why we are focused on that – we want our businesses and companies to be competitive and to innovate and have access to the best talent. That is why we are focused on it as a financial regulator.

In terms of next steps, I think the idea there was that we believe there is a lot of effort already underway. It may be all we need to do is issue the letter and there will be no further steps. The reference to first steps is to say we will see what happens next and of course we will always be in dialogue with our own legislators to make sure that to the extent we need legal or statutory authority we will make sure to seek that which is why the dialogue with Senator Breslin and legislators is so critical.

Asm. Cooley thanked Supt. To and stated that companies need to operate in the American and global marketplace and that is important. Asm. Cooley stated that he is sitting in front of the flag of a city he helped found and in the 2000 census Rancho Cordova was identified as the most rapidly diversified place in CA during the decade that led up to that and #2 for all of CA in terms of diversity in individual neighborhoods. That has led to an unusual happening of more commercial office space in Rancho Cordova than in downtown Sacramento which is 12 miles away and in fact an awful lot of fortune 500 companies put their offices there which says that it is good business to have a business that are populated by people who are reflective of all of America and global markets and it supports credibility of the marketplace and supports a sensitivity to the variation within these markets. Asm. Cooley thanked Supt. To for her remarks.

UPDATE ON PROPOSED CHANGES TO SSAP. NO 71

Asm. Cooley stated that the Committee has had two robust discussions on the issue of proposed change to Statement on Statutory Accounting Principle "Policy Acquisition Costs and Commissions" (SSAP 71). In Tampa most recently we discussed this and there are questions as to who maybe be disadvantaged by the changes. NCOIL is hoping that in this area of commission funding agreements in which some carriers enter into third parties that there are substantive changes being proposed that will have a significant impact on a number of insurers. NCOIL is looking for a phase in period to allow companies to adjust. Asm. Cooley asked if there was an update on the status of the proposed changes.

Cmsr. Altmaier stated that the update in SSAP 71 since Tampa is that we have a number of our working groups and task forces advance the revisions through its process and they landed on the desk of the E committee on March 15 where it adopted the proposed revisions. For those that might not be familiar with this back in 2017 a state insurance department through its examination process identified a carrier that was using this accounting process and the state DOI felt that it was not in compliance with SSAP 71. Subsequent to that in 2019, revisions began to clarify SSAP 17 to confirm that. Since that point of time, The NAIC has identified only four insurance companies that the revisions would impact. With respect to the substantive vs. non substantive nature of the changes, that is the basis of the fact that the NAIC felt that the changes did not represent a significant shift from the accounting policy so it wasn't a factor of how many dollars the impact may be to the four insurers it was because we felt that this was the accounting practice previously and we were just clarifying the intent of that because of the difficulty through that particular examination process.

That was recommended by the working group and task force and the E committee as recently as this past week on March 15th. They adopted an effect date of 12/31, 2021. At least two of the commentors requested that the effective date be no later than that date so we believe that was responsive to some of the comments received. The E committee had also discussed grandfathering and that concept was considered by the various working groups and task forces but we ultimately determined to not go down that path. Because of the small number of firms that are engaged in this practice, we felt as if our current framework for carries to get permission for a permitted accounting practice from their domestic state regulator would be the most appropriate way to handle that.

Typically, it terms of next steps when our E committee adopts things of this nature we would generally consider that at the following plenary meeting which was held a couple of days ago but because of the discussion on this issue we pulled this item off of that particular agenda so that our members and stakeholders could give it further consideration and we have another discussion on that at our next scheduled plenary meeting to take place within the next three months.

Rep. Lehman stated that with an implementation date of the end of the year and taking no action until September, if I am one of those four firms, should I consider this a done deal? Cmsr. Altmaier stated that it's not quite a done deal because it does have to be approved by the plenary body which is the entirety of our membership but I would say that given the discussions that have taken place at the working group and task force and committee levels I would be surprised if there was change at plenary in terms of the outcome of this. Because we have been working on this since 2019 I would expect that the four carriers would hopefully have been considering that the change might be happening and be making preparations for that.

Rep. Lehman stated that he has heard from others that it may be broader than four companies. Is there a reason this has to be put in so quickly – I'd rather have two years or three years for something like this as it could have a pretty serious impact on at least those four companies and I think it's a bigger impact than something that could be handled very easily. Has there been a discussion on a longer phase in/effective date. Cmsr. Altmaier stated that yes consideration was given to the phase in but ultimately the working group and task force and E committee determined not to do that primarily because as you are all well aware, our insurance industry is not shy and if there had been more than four companies affected I think we would have likely heard their commentary through this process by this point given how long we have been discussing this. Because of the fact that we feel comfortable that we are dealing with a small universe of carriers, should there be any necessary needs to have a more delayed implementation phase, the permitted practice with their domiciliary state insurance regulator would be the most appropriate venue to achieve that.

Asm. Cooley stated that this is obviously an issue of importance to legislators and it touches operations of carriers operating under state law. Asm. Cooley asked if any other Commissioners wished to make a comment as a multi jurisdiction perspective would be of interest.

Cmsr. Mulready stated that he has his concerns with this proposal but as he has dug more in to this he has become more comfortable with the number that has been impacted and the number of companies affected. At the public E committee meeting there was some robust discussion about possibly delaying the implementation so I think there is some chance of that possibly happening but outside of that I think I have settled into where it's going forward and the question remains as to whether there might be a delay.

Dir. Farmer stated that the NAIC is a diverse membership of 56 jurisdictions and as has been outlined today we have a committee process and this issue has been debated an awful lot. I sit on the E committee and the other day the vote for South Carolina was "no" and was one of two or three no votes but I respect the committee process and as Cmsr. Altmaier indicated this will be on the plenary agenda later as opposed to the one earlier this week so there is time for additional debate. This is an example of where the NAIC might have disagreement within the organization but the process is still being followed and I'm comfortable with that.

Mike Chaney, Mississippi Insurance Commissioner, stated that Mississippi has no policies that would be affected by this change to SSAP 71 but we did vote "no" in the committee process for a reason that we wanted more time to look and see just what the ramifications of what the changes would be on certain companies. The issue is are the companies able to put up the dollars that have been deferred up to five years. We do know of four companies that are affected and possibly three others. The dollar amount minimum is about \$400 million that would have to be put up immediately and it could range up to \$600/700 million that would have to be put in so this is essentially dollars that would be in surplus. If you grandfather the people in and let them go forward they will have all of the dollars in within five years. If you require that you make it effective at the end of December and you could argue we gave them 24 months to put that money back into surplus, that's a possible solution instead of five years. To Cmsr. Altmaier's comment, I agree that we need to go ahead and address it and get it out of the way and I think we will probably address this in September. Cmsr. Altmaier stated that it will probably be addressed before September.

Cmsr. Chaney stated that the NAIC has the same constraints of having virtual meetings and you can only do so many at one time and it's hard to schedule them where everyone can meet at the same time.

Asm. Cooley invited all other NAIC representatives to comment. Troy Downing, Montana Insurance Commissioner, thanked everyone for this process. A lot of comments were made in terms of SSAP 71 and Montana just like Mississippi doesn't have any domestics that are affected by that but we're still trying to understand what the issues are with delaying or not.

Dana Popish Severinghaus, Acting Illinois Insurance Director, thanked everyone the opportunity to participate and stated that she has attended NCOIL in the past when working on the company side and it's a pleasure to be on this side as a regulator.

Alan McClain, Arkansas Insurance Commissioner, stated that he has been involved with the NAIC when he was with other state agencies and he has always watched the collaboration with NCOIL and he always thought it was a very important collaboration to make sure that these discussions happen with legislators.

Cmsr. Mulready stated that he wanted to point out even though its held as a non-substantive matter as opposed to substantive which in general terms just means it's a clarification and not something new, due to feedback from NCOIL, Scott White, Virginia Insurance Commissioner, heard things loud and clear and based on that the NAIC officers and E committee chose to handle that process differently. It didn't change the substantive and non substantive issue but its been through an extensive process that it normally would not have due to NCOIL's concerns.

ADJOURNMENT

Heating no further business, the Committee adjourned at 3:30 p.m.