

NAIC Update Spring 2015



Top stories

- NAIC adopts ridesharing coverage compromise
- International capital standards find no love
- ORSA pilot review proves positive
- Cyber security moves to the top of the list
- Regulator calls for discussion of solvency regs that may need updating

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What's next

- July 16-19: NCOIL Summer Meeting; Indianapolis, IN
- August 15-18: NAIC Summer National Meeting; Chicago, IL

Valley of the Sun hosts a quiet NAIC meeting

PHOENIX, AZ — Committee charges were adopted and reports received at the spring national meeting of the National Association of Insurance Commissioners (NAIC) in Phoenix, Arizona. Despite record temperatures in the high 90s outside, there was little of the heat associated with recent NAIC meetings inside.

New York did its best, with its expected opposition to Principle-Based Reserving (PBR) for life insurers, and oft-expressed concerns about the use of affiliated captives primarily by some of these very same life insurers, but absent was the strenuous disagreements among some commissioners that had surfaced during recent meetings.

Instead, Montana Insurance Commissioner Monica Lindeen's first meeting as NAIC President was a relatively quiet affair. With numerous new commissioners at the table in this first post-election meeting, things seemed to go smoothly, at least in public, with the mutual congratulations among regulators led by California's Dave Jones, industry, and transportation network companies on reaching a framework agreement for insurance coverage more typical of this meeting.

This may not be surprising, given that in some senses, this period represents the eye of the storm for US insurance regulation. Behind the NAIC for the most part is the hard work of creating the framework of the Solvency Modernization Initiative (SMI). Implementation is the next step, marked this year by the first Own Risk and Solvency Assessment (ORSA) reports, with revised corporate governance guidelines kicking in next year.

Ahead of the NAIC is arguably a more formidable foe – an international regulatory regime empowered by the central bankers and treasury departments at the Financial Stability Board (FSB) to create insurance capital standards (ICS) for Global Systemically Important Insurers (G-SIIs) and Internationally Active Insurance Groups (IAIGs) that some say do not effectively reflect the insurance business model, and some fear may lead to a trickle-down effect on all insurers.

The NAIC has been a strong defender of US state regulation in various international forums, and a leading defender of the US insurance industry. Whether or not its efforts prove effective will be seen when standards are finalized.

But those discussions, while resulting in a full house at the International Insurance Relations (G) Committee meeting, also serve as unifiers for both state regulators and industry attending the meeting, with the ire directed mostly at the International Association of Insurance Supervisors



NAIC President and Montana Insurance Commissioner, Monica Lindeen

Courtesy of the NAIC

(IAIS) and probably more evident at that organization's stakeholder hearings. At the NAIC, industry and regulators holding hands and singing Kumbaya made for little drama.

But quietly, progress was made. Uniform market conduct standards edged closer to being an accreditation standard, adding credibility to the concept of a true national system of state-based regulation. The NAIC moved toward (and later adopted) cyber security principles based on the National Institutes of Science and Technology (NIST) cyber security framework, similar to those adopted by the Securities Industry and Financial Markets Association (SIFMA).

Very quietly, Financial Condition (E) Committee Chair, Rhode Island Insurance Commissioner Joseph Torti may have opened up a route to significant change. Torti, who has been at the center of arguments over both PBR and captives, called on industry and regulators to, in essence, put up or shut up by identifying for his committee which of its regulations need to be updated.

TAKEAWAYS:

- International actions on capital will affect US regulation in the near- and medium-terms.
- Regulators are serious about cyber security.
- Industry needs to take the opportunity now to tell the E committee which regulations and standards need modification.

Ridesharing coverage rules hit the road

A triumphant meeting of the Sharing Economy (C) Working Group saw two major steps forward on the coverage of the rapidly developing transportation network companies (TNC) sector. Representatives of personal auto insurers and transportation network companies jointly presented an insurance compromise model bill to the working group, and the working group adopted its own drafted white paper, *Transportation Network Company Insurance Principles for Legislators and Regulators*.

"I think this is a tremendously positive development," said California Insurance Commissioner and Working Group Chair Dave Jones. Jones had led the NAIC's commitment to creating suitable coverage standards for transportation network companies.

Sometimes referred to as a ridesharing companies, transportation network companies are defined by California regulators as those that "provide prearranged transportation services for compensation using an online-enabled application or platform (such as smart phone apps) to connect drivers using their personal vehicles with passengers."

Numerous concerns had been expressed both within and outside the NAIC as to coverage for both drivers and passengers using these services.

The representative of one major insurer reviewed the history of California's legislative battles over transportation network companies before telling the working group that virtually all personal lines insurers and trade associations supported the compromise. The compromise permitted exclusion of coverage, and allowed insurers to subrogate.

A representative of one of the major transportation network companies said the compromise would "enable growth and innovation in the sector both for insurers and for transportation network companies."

Model bill highlights cited by the NAIC are:

- Expressly permits personal auto policies to exclude coverage for TNC related driving.
- During Period 1, this bill would mandate primary insurance coverage of 50/100/25 and includes all state mandated coverages (e.g., UM or PIP). The mandate does not include comprehensive or collision coverages.

- Each of the six states that have passed TNC laws have enacted similar Period 1 limits
 - CA, CO, UT = 50/100/30
 - IL, DC, VA = 50/100/25
- During Periods 2 and 3 when a driver has accepted a ride request and/or while the fare paying passenger is in the vehicle, the bill would mandate primary insurance of \$1 million in liability coverage (up to \$1.5 million in a minority of states that mandate such coverage for limos) as well as any other coverage mandated for limos by the state's financial responsibility laws. The mandate does not include comprehensive or collision.
- These coverage mandates can be satisfied by either a policy maintained by the TNC driver, by the TNC itself or a combination of both.
- The primary TNC coverage shall not be dependent upon a personal auto policy denying a claim before coverage is triggered.
- TNC drivers will be required to carry proof of TNC insurance coverage.
- TNCs must disclose to their drivers that their current personal auto policy may not provide any coverage for TNC-related driving.
- After an accident, TNC drivers must disclose whether they were logged into the TNC system.
- Requires cooperation between TNCs and insurers involved in a coverage investigation.
- Grants a statutory right of contribution against TNCs for claims insurers may have erroneously paid.

Capital standards still unloved

The meeting of the ComFrame Development and Analysis (E) Working Group heard from regulators on current advances towards the development of the IAIS insurance capital standards (ICS), including the field testing process.

Qualitative field tests from supervisors related to group structure and corporate governance have been assessed and as a result there will be further editing of ComFrame. Group enterprise risk management qualitative questions are due, with the second quantitative field test by volunteers beginning in April and ending by June. This will include the Generally Accepted Accounting Principles (GAAP) Plus valuation approach. Observations from the field test will be publicly released in June 2015. The field testing specifications might be released sooner.

The NAIC's Elise Liebers told the group that changes may be made to the basic capital reserve (BCR) – allocations and factors – after ICS data collection is done in June. In addition, she said part of the margin over current estimates (MOCE) may be considered reserves and not available for capital.

A consultation paper on Higher Loss Absorbency (HLA) will be released during June 2015, however, key questions remain regarding methodology and definition of allowable capital resources. Regarding the ICS, the working group was informed that the IAIS recently approved an ultimate goal with respect to a single ICS without an end-date, as the IAIS intends to focus on interim goals. The Working Group also discussed the two recent ICS-related stakeholder meetings in California in February and Rome in March, including observations from interested parties.

The representative of one major US insurer expressed concern about the proposed treatment of surplus notes and subordinated debt under the proposed ICS. Under these standards, he said the only capital sources available to insurers in periods of stress would be common stock, and urged that the ICS have a capital instrument available with an interest rate component. Discussing the Rome IAIS stakeholder meeting, he said Asian insurers also had the same concern with their capital fitting in this process.

In periods of stress other jurisdictions rely on interest rate instruments, he said, and the ICS and the IAIS were not respecting the way the market actually worked under stress.

George Brady of the IAIS told the working group that the IAIS will have time on its schedule in Macau where the executive committee will discuss comparability. There would be two days of open discussion, said Brady.

The NAIC is working closely with Federal colleagues to have a US capital proposal ready by August 2015.

Next steps:

- IAIS Executive Committee to discuss concepts behind standards at stakeholder meeting in Macau in June.
- IAIS technical committee meetings on standards continue in August and October in Basel, Switzerland.

Cyber security, data privacy are top issues for regulators

The NAIC signaled the increasing importance of cyber security issues by continuing its work developing cyber security principles for insurers and regulators at the Cyber Security (EX) Task Force meeting. Commission Chair Adam Hamm of North Dakota told the task force that it had both broad charges and specific projects under its purview, including monitoring cyber security developments and making recommendations where appropriate.

The task force plans to survey states to assess their current responses to cyber security issues, and also plans to develop a "Consumer Bill of Rights." Upcoming examinations of insurers will include examination of their cyber security capabilities, Hamm said.

The task force also heard from insurers affected by data breaches, and reviewed work by the Property and Casualty Insurance Committee on cyber security insurance coverage supplement blanks. The task force also reviewed activities of the IT examination working group as it related to cyber security.

The draft principles for effective cyber security insurance regulatory guidance were discussed by the task force and by attendees. One consumer representative expressed concern that consumer issues were not adequately addressed. He suggested that data privacy be considered foundational, and that companies without adequate data privacy protections not be allowed to collect or keep consumer information.

Numerous industry and trade group representatives also discussed the proposed guidance, with some expressing concern as to the practicality, cost-effectiveness, and unintended consequences of some of the 18 proposed principles.

In response to the discussion, the task force agreed to extend the comment period and later adopted a streamlined set of principles as shown below.

Next steps:

- Review data privacy policies, including those applicable to third-party vendors.
- Ensure cyber integrity is not seen as restricted to an IT issue.
- Consider gaming and using psycho-social tools to explore, reduce vulnerability.



Commission Chair, North Dakota Insurance
Commissioner Adam Hamm

Courtesy of the NAIC

NAIC Principles for Effective Cybersecurity: Insurance Regulatory Guidance

Due to ever-increasing cyber security issues, it has become clear that it is vital for state insurance regulators to provide effective cyber security guidance regarding the protection of the insurance sector's data security and infrastructure. The insurance industry looks to state insurance regulators to aid in the identification of uniform standards, to promote accountability across the entire insurance sector, and to provide access to essential information. State insurance regulators look to the insurance industry to join forces in identifying risks and offering practical solutions. The guiding principles stated below are intended to establish insurance regulatory guidance that promotes these relationships and protects consumers.

Principle 1: State insurance regulators have a responsibility to ensure that personally identifiable consumer information held by insurers, producers and other regulated entities is protected from cybersecurity risks. Additionally, state insurance regulators should mandate that these entities have systems in place to alert consumers in a timely manner in the event of a cybersecurity breach. State insurance regulators should collaborate with insurers, insurance producers and the federal government to achieve a consistent, coordinated approach.

Principle 2: Confidential and/or personally identifiable consumer information data that is collected, stored and transferred inside or outside of an insurer's, insurance producer's or other regulated entity's network should be appropriately safeguarded.

Principle 3: State insurance regulators have a responsibility to protect information that is collected, stored and transferred inside or outside of an insurance department or at the NAIC. This information includes insurers' or insurance producers' confidential information, as well as personally identifiable consumer information. In the event of a breach, those affected should be alerted in a timely manner.

Principle 4: Cybersecurity regulatory guidance for insurers and insurance producers must be flexible, scalable, practical and consistent with nationally recognized efforts such as those embodied in the National Institute of Standards and Technology (NIST) framework.

Principle 5: Regulatory guidance must be risk-based and must consider the resources of the insurer or insurance producer, with the caveat that a minimum set of cybersecurity standards must be in place for all insurers and insurance producers that are physically connected to the Internet and/or other public data networks, regardless of size and scope of operations.

Principle 6: State insurance regulators should provide appropriate regulatory oversight, which includes, but is not limited to, conducting risk-based financial examinations and/or market conduct examinations regarding cybersecurity.

Principle 7: Planning for incident response by insurers, insurance producers, other regulated entities and state insurance regulators is an essential component to an effective cybersecurity program.

Principle 8: Insurers, insurance producers, other regulated entities and state insurance regulators should take appropriate steps to ensure that third parties and service providers have controls in place to protect personally identifiable information.

Principle 9: Cybersecurity risks should be incorporated and addressed as part of an insurer's or an insurance producer's enterprise risk management (ERM) process. Cybersecurity transcends the information technology department and must include all facets of an organization.

Principle 10: Information technology internal audit findings that present a material risk to an insurer should be reviewed with the insurer's board of directors or appropriate committee thereof.

Principle 11: It is essential for insurers and insurance producers to use an information-sharing and analysis organization (ISAO) to share information and stay informed regarding emerging threats or vulnerabilities, as well as physical threat intelligence analysis and sharing.

Principle 12: Periodic and timely training, paired with an assessment, for employees of insurers and insurance producers, as well as other regulated entities and other third parties, regarding cybersecurity issues is essential.

E committee chair wants end to one-offs

As expected, discussion of captive use was central at the meeting of the Financial Condition (E) Committee. This led to the appointment of a new working group, and to a suggestion from the chair, Rhode Island Superintendent Joseph Torti, that potential revisions to statutory accounting guidelines be considered if needed.

The committee unanimously adopted the suggestion by Torti to appoint a Variable Annuities Issues Working Group to oversee the NAIC's efforts to study, and address as appropriate, regulatory issues resulting in variable annuity captive reinsurance transactions, especially of lead states of groups with transactions.

Iowa's Superintendent will chair this working group, which will focus on incentives and not the captives themselves. The Financial Analysis Working Group will be used to collect confidential information from ceding insurers.

The working group will get consultants to analyze issues, including valuation, and the consultant will recommend any needed changes, for example, to SSAP, reserving requirements, or risk-based capital (RBC). This, Torti said, was a recognition of the importance of guaranteed living benefits.

Torti also wondered how best to address the dynamic of insurers asking for, and regulators approving, captive reinsurance transactions without the regulatory incentive first being directed to the E committee or one of its subsidiary policymaking groups. Torti said that statutory accounting was based on the premise that issues were to be brought to the E committee or one of its subgroups,

however companies were going to their domiciliary regulator to get permission for one of transactions as opposed to going to the NAIC.

"These are national issues that are being addressed by a single state's practices... perhaps creating an unlevel playing field," said Torti. He called for a return to a more national, rational system of state-based regulation, saying he would rather have seen a permitted practice than a XXX reserving captive transaction that was not transparent.

Torti told the assembled group that he wanted to hear from regulators about areas of concern where change would be necessary so the group could start working on these issues. Torti asked the same of industry. "If the evolution of our solvency framework hasn't kept pace with what you're doing, I'd like to hear about that," said Torti. He said he was seeking input before formalizing any process.

The E committee also adopted a Title Insurance Guaranty Association guideline. The committee was told that agreement could not be reached in a model act so the guideline was adopted as a comp compromise.

Next steps:

- Provide E Committee with suggested solvency regulatory changes to reflect market changes.

ORSA pilot points way to bright future

"I really do think we will not see a large insolvency in this country for a very long time... because of ORSA," said Steve Johnson of Pennsylvania at the meeting of the Group Solvency Issues (E) Working Group.

Johnson, who would previously referred to ORSA as a game changer, said, "I think the industry really is stepping up." He said industry was embracing ORSA within the business, not just as a compliance measure.

Attendees heard the results of the latest ORSA pilot review. Twenty-six states participated this year and 26 insurers, including 11 life, seven P&C, five health and three reinsurers. According to the regulators, there were a few areas for improvement. These included:

- Alignment of risk and business strategy;
- Quantifying risk appetite statements at the enterprise level;
- Support for why the company chose the solvency approach it selected; and
- The use test – demonstrating the information is embedded in process.

It was noted that companies were appropriately reporting areas for improvement in their reports, and that some

companies who had not participated in the pilot were conducting walk-throughs with their respective lead states.

On the Insurance Holding Company System Regulatory Act, attendees were told that 44 states had adopted the 2000 model changes. Legislation to adopt the latest changes had begun in about 16 states as of 2015.

Tracy Laws of the Reinsurance Association of America (RAA) asked if the Act would be an accreditation standard, suggesting that it should be. Regulators said it was a question of timing, and their not wanting it to be too punitive to some states. One regulator said some states might have a difficult time passing the Act, especially states with a small domestic industry where it may not seem relevant.

The working group also addressed comments received on proposed changes to the Financial Analysis Handbook, most of which met approval from industry. There were some concerns, especially as it related to supervisory colleges, and industry will submit a revised draft to the working group.



Consultants review NAIC governance process

In its first meeting since the departure of Connecticut Insurance Commissioner Thomas Leonardi, who had loudly called for a governance review, the Governance Review (EX) Task Force heard a report from consultants hired by the NAIC to review the governance process.

The consultants told the task force they had spent the last few days doing commissioner interviews – 35 in person – and had also received 44 responses from commissioners to their survey, with more to come.

The consultant said they had reviewed documents of and structures within the NAIC and had one other recommendation – to interview five to seven key staff members. They plan to draft a report that would match their observations against best practices within 30 to 45 days.

Louisiana Insurance Commissioner Jim Donelon noted the relative lack of government experienced by the consultants, notable given the quasi-government side of the NAIC's operation. However, he said he was encouraged by his interview and the responses.



Louisiana Insurance Commissioner, Jim Donelon

Courtesy of the NAIC

State regulators still concerned about international counterparts



The Financial Stability (EX) Task Force heard an update on some Financial Stability Board (FSB) and IAIS initiatives affecting insurers.

On March 4, 2015, the FSB and the International Organization of Securities Commissions (IOSCO) issued a public consultation until May 29, 2015 on proposed Assessment Methodologies for Identifying Non-Bank Non-Insurer G-SIFIs. The asset management considerations referenced in the consultation might impact insurers. Additionally, the task force noted that 15 US firms out of 50 worldwide would be considered in the third annual assessment of G-SIFIs. The IAIS will be revising the G-SII methodology to address unresolved issues, however, any changes during 2015 would not impact assessment during 2015.

North Dakota Commissioner Adam Hamm provided the task force an update on the US Financial Stability Oversight Council (FSOC) process. He said the FSOC is adopting more transparency and the discussion of whether SIFIs should be provided an exit ramp still continues.

James Kennedy of Texas provided a presentation on international developments on resolution and total loss absorption capacity. A key question the IAIS is considering is whether the FSB's proposed Total Loss Absorbency

Capital (TLAC) is appropriate for insurers and G-SIFIs. TLAC would be designed to provide sufficient capacity to absorb losses, both before and during resolution, and enable resolution authorities to implement a resolution strategy that minimizes any impact on financial stability and ensures the continuity of critical economic functions.

Several supervisors have expressed concerns about banking concepts being applied to insurers. Additionally, the NAIC is concerned that the related bail-in concept under review may suggest that insurance liabilities should be converted into equity or written down to ensure the continuity of critical functions of a G-SII.

The task force heard a presentation from Christi Neighbors regarding the International Monetary Fund's (IMF) Financial Sector Assessment Program (FSAP) report on the US. The NAIC expressed strong concerns with the IMF's not appropriately recognizing state authority within receiverships during the assessment. One regulator characterized it as willful ignorance. The NAIC is trying to get the IMF to change the report before it is issued.

Reinsurance Task Force busy with international issues

The Reinsurance (E) Task Force received status reports on states' implementation of the revised Credit for Reinsurance Model Law and Act. Twenty-six states have passed the revised model, representing more than 60% of the premium written. Eleven states are introducing legislation in 2015. Arizona and Arkansas are awaiting their governor's signature.

The task force received a report from the Qualified Jurisdiction Working Group. Bermuda, Germany, France, UK, Ireland, Switzerland, and Japan have been approved for a five-year period. There have been no other formal requests. Thirty reinsurers have been certified by various states.

Interested parties asked the task force to leverage the Credit for Reinsurance Models in exchange for certain aspects of equivalence with regard to the January 1, 2016 effective date of Solvency II. Specifically, this issue involves how US-based reinsurers will be able to conduct business in the EU under Solvency II. There were mixed views from interested parties on whether the task force should support or discourage a US covered agreement.

The task force received a status report from the XXX/AXXX Captive Reinsurance Regulation Drafting Group. The drafting group anticipates that it will submit a draft for consideration at the August national meeting.

The task force discussed proposed amendments to the NAIC Financial Regulation Standards and Accreditation Program Guidance on Captive Reinsurers. The current draft was considered to be overly broad and is being redrafted. The preamble will state that it only applies to captives that reinsure: (1) XXX/AXXX reserves; (2) variable annuities; and (3) long term care business. The revisions will be released for exposure.

The task force discussed a referral from the Valuation of Securities Task force on the issue of the NAIC Bank List regarding what entities are included in the term "qualified U.S. financial institution" in the Credit for Reinsurance Model Law/Regulation. A memo from the Securities and Valuation Office (SVO) to the task force noted that the level of regulation for these entities is similar to that of banks. A motion was passed to request the SVO to develop criteria for which of these non-banking entities should be on the SVO list.

The task force discussed another referral from the Valuation of Securities Task Force regarding the meaning and intent of the phrase "securities listed by the Securities Valuation Office" for purposes of collateral in the Credit for Reinsurance Model Law and Regulation.

The task force was informed that the NAIC had received a letter from the Federal Insurance Office (FIO) to update its annual report on whether state regulators are experiencing any difficulty obtaining reinsurers' financial information since the *Nonadmitted Reinsurance and Reform Act*. NAIC staff stated that 53 members responded to a survey and a response was being drafted for review. No issues were noted in the responses.

Cat risk subgroup adds exemptions

The Catastrophe Risk (E) Subgroup adopted a proposal that provides exemption criteria in PR026 (R6 and R7 charge) by providing interrogatories to determine whether there is “substantive earthquake and hurricane risk exposure” based on minimum coverage exposure and surplus percentages of insured-property in catastrophe-prone areas.

The Subgroup adopted a proposal that modifies the Catastrophe Risk Charge (R6 and R7) to provide filers with flexibility concerning the following:

- Use of modeled Aggregate Exceedance Probability (AEP) versus Occurrence Exceedance Probability (OEP) basis;
- Structure of curve sorting; and
- Methodology to calculate ceded recoverable for the contingent credit risk portion of the charge.

The subgroup has not decided whether a gross up factor should be applied to OEP modeled results in order to better approximate AEP. The new CAT Risk Charge within the confidential 2015 RBC report is being implemented for information purposes only.

The Subgroup also discussed disclosure revisions to the CAT Risk Charge Attestation.



In brief:

Private equity completes its task

The Private Equity Issues (E) Working Group moved to end its life quietly upon adoption of proposed guidance to the Financial Analysis Handbook and referral of that guidance to the Financial Analysis Working Group. Though set up to examine the impact of and need for new rules on private equity involvement, the group created new guidance that is more general in nature, intended to be applicable to risk assessment for any change of control.

"A" Committee adopts PBR small insurer exemption

Once again at a meeting of the Life Insurance and Annuities (A) Committee, New York made known its opposition to the adoption of principle-based reserving (PBR) for life insurers. This time New York opposed a small company exemption that was proposed, claiming that it was rejected when being considered during the original creation of PBR, and that its inclusion now had no actuarial basis, but was only for political expediency. New York also charged that the ACLI drafted the exemption. With New York opposed and California abstaining, the committee adopted the exemption.

So does Executive

The Executive (EX) Committee adopted the small company exemption from PBR recommended by the PBR Task Force. The exemption would now need to be adopted at an upcoming meeting. The committee also adopted the Unclaimed Death Benefits Model Law.

PBR company outreach continues

The Principle-Based Reserving Review (EX) Working Group heard a status update on the PBR Company Outreach. The report on the survey from 38 insurers should be available in summer 2015. The report is going through Society of Actuaries peer review and legal review. The working

group decided not to hire a consultant to work with a small number of insurers as a PBR pilot. Instead, NAIC will manage the pilot itself similar to the ORSA Pilot project. It will start in June 2015 with a report due by June 2016. It also adopted a report from the PBR Blanks Reporting (EX) Subgroup. The working group also agreed to expose for comment the proposed changes to the PBR blanks and related instructions. The working group will likely disband the subgroup once the exposure is completed.

Risk Focused Surveillance Working Group keeps focus on reducing redundancies

The Risk Focused Surveillance (E) Working Group discussed comments received from regulators and interested parties regarding the exposure of proposed guidance for the NAIC Financial Analysis Handbook and Financial Condition Examiners Handbook to reduce redundant information requests of insurers. Modifications were proposed and the working group will consider the revisions during a future meeting. The working group exposed for public comment the Group Profile Summary template for a 60-day comment period. The working group heard an update regarding a project to identify and document the regulatory skills sets necessary to effectively perform risk-focused surveillance.

Actuarial Update

Life Actuarial Task Force (LATF)

Amendments to the Life PBR Valuation Manual (VM-20) continue, albeit the number of them appear to be decreasing as we approach the expected January 1, 2017 operative date. As of the date of the meeting 22 states had passed the model law enabling PBR, and based pending legislation activity the states are on track to meeting the 38 state / 75% premium requirement for a January 1, 2017 operative date. Other activities include further work on new life mortality tables, principles based annuity reserving standards, index-linked annuity discussions, and nonforfeiture modernization. Following are highlights from LATF from the Spring 2015 NAIC Meeting:

New Mortality Tables

The American Academy of Actuaries (AAA) gave another update of the mortality table work being performed by the Society of Actuaries (SOA) and AAA toward developing the 2014 VBT and 2017 CSO mortality tables, and tables for PreNeed and Simplified Issue products.

Regarding the 2014 VBT, LATF voted to expose the latest version of the tables for comment, and voted to update these tables to 2015. These tables will be used for VM-20 deterministic reserves and for reserves under the revised AG38. Work on the 2017 CSO table is progressing concurrently – preliminary testing results indicate reserve decreases (compared with the 2001 CSO) varying by age and by product with larger decreases for younger ages and for “XXX” term products. An adoption date is expected during 2016, resulting in a January 1, 2017 operative date. Work is continuing on the PreNeed and Simplified Issue tables, with an expected completion date of summer 2015.

Life PBR (VM-20)

Work continues on more refinements to the Life portion of the Valuation Manual. Proposed/adopted amendments to VM-20 at the Spring 2015 meeting included the following:

- Refinement for modelling of Commercial Mortgage assets - Changes were proposed to map NAIC classes of commercial mortgage assets to other “PBR” classes for consistency with other asset classes. The changes were exposed by LATF for 45 days.
- Categorization of “Change in Basis” – There were no specific recommended changes, but discussion around how the deterministic and/or stochastic portions of the PBR reserve should be reported in Exhibit 5A of the Annual Statement. The ACLI is recommending that the “formulaic” piece follow the existing “change in basis” parameters, but that any stochastic “excess” reserve not be considered as part of the “change in basis.”

Contingent Deferred Annuity (CDA) Subgroup

The CDA subgroup proposed revisions to the Model Nonforfeiture Law (Model 805) and the Synthetic GIC Model Regulation (Model 695) to exempt CDAs from nonforfeiture law and from the Synthetic GIC model regulation. The proposed revision was exposed for comments by LATF.

Experience Reporting (VM-51) Subgroup

The VM-51 Subgroup provided another update. Regarding the New York and Kansas field tests, the group is considering next steps in expansion of experience reporting – Long Term Care and Variable Annuities are currently at the “top of the list”. For Variable Annuities, data would be separated between policies with and without guaranteed living benefit (GLB) riders. Discussion will continue on subsequent conference calls and the summer meeting.

PBR Review Working Group

The PBR Blanks subgroup proposed changes to the Annual Statement for PBR to include revisions to sections on the small company exemption, and a new section for companies that qualify for the single state exemption. These were exposed for comment for 60 days.

The subgroup on PBR Reporting Review Procedures discussed changes that may be needed to the Financial Condition Examiners Handbook and the Financial Analysis Handbook. Work is in process and will be discussed further at the summer meeting.

There was an update from NAIC staff regarding NAIC review and State Insurance Department Staffing for PBR. The NAIC is in the process of increasing actuarial staff, with the expectation of having several additional actuaries to support the states by January 1, 2017. The NAIC is also looking into purchasing third party vendor software capable of modeling PBR.

Actuarial Professionalism

Academy of Actuaries (the Academy) representatives provided reports on PBR related topics. The Academy has recently completed a report of the qualification standards for PBR. The Academy is not recommending a separate “PBR” qualification standard, but are recommended that actuaries performing PBR related tasks make sure they are qualified to do the work. They indicated that there is a “long list of materials” the actuary needs to be familiar and added this list and other PBR considerations within the FAQ section of the Academy website.

The actuarial update was prepared by Russell Menze.

For your comments and suggestions please contact the author – rmenze@deloitte.com.

Health Care Update

The mission of the Health Insurance and Managed Care (B) Committee is to consider issues relating to all aspects of health insurance and the Affordable Care Act (ACA) continues to dominate the agenda, including looking at the results of the second year of open enrollment.

The federal Center for Consumer Information and Insurance Oversight (CCIIO) provided an update on ACA implementation activities and enrollment results for the health insurance marketplaces, noting that the second year went much smoother than the first year which was plagued by technological challenges. The next major milestone will be the income tax filing season and the education of consumers necessary to understand the requirements for having health insurance coverage and the fee for not having coverage.

Beginning in 2016, the small group definitions in the federal health care reform law will apply instead of individual state definitions. Committee representatives expressed concern over the timing of the decision on the possibility of a delay of this requirement because states may need to make necessary changes to laws in their state.

Consumer Operated and Oriented Plans or “CO-OPs” are under the watchful eye of many state insurance departments. The National Alliance of State Health CO-OPs (NASHCO) which represents all 23 CO-OPs in 26 states, updated the committee on the program activities which include more than one million covered lives.

NASHCO represented that states that have CO-OPs experience premium rates than states without CO-OPs and believes the financial results of these plans are improving

while at the same time improving the quality of health care provided. Regulators expressed concerns about the many CO-OPs with unfavorable loss ratios and potential solvency issues, noting the problems with CO-OPs in Iowa and Nebraska.

It remains to be seen how the settlement of the insurance exchange premium stabilization programs will impact the CO-OPs, especially the temporary programs that will go away for 2017.

The Health Care Reform Regulatory Alternatives Working Group heard presentations about the potential implications of a King v. Burwell decision in favor of the plaintiffs. The U.S. Supreme Court heard arguments in the case about the Affordable Care Act tax subsidies in early March, with a ruling expected this summer.

The ruling could have a significant impact on state insurance markets and in particular the states with a federally facilitated marketplace. The plaintiffs argue that the language of the ACA stipulates that insurance subsidies should only be available in states that set up their own exchanges, not states that rely on the federally run exchanges.

The federal government, meanwhile, argues that the law, as a whole, makes clear subsidies should be available for those enrolling in any exchange, whether established by the state or federal government. The presentations stressed the importance of developing a plan of action in anticipation of the ruling later this year.

The health update was prepared by Lynn Friedrichs.

For your comments and suggestions please contact the author – lfriedrichs@deloitte.com.

NAIC Accounting Update

This section of the NAIC Update focuses on accounting and reporting changes discussed, adopted and exposed during the 2015 Spring Meeting.

Statutory Accounting Principles Working Group

Current Developments: The SAPWG adopted the following nonsubstantive amendments as final during the 2015 Spring Meeting:

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2014-23	SSAP No. 69 – Statement of Cash Flow	P&C Life Health	Revisions clarify that the cash flow statement should be limited to transactions involving "cash", which is defined to include cash, cash equivalents and short-term investments, and to expand the disclosure to include non-cash operating items, with a December 31, 2015 effective date.	Y	Y	2015
2014-29	SSAP No. 1 – Disclosure of Accounting Policies, Risk & Uncertainties, and Other Disclosures, SSAP No. 4 – Assets and Nonadmitted Assets and various other statements, and SSAP Nos. 48, 68 and 97	P&C Life Health	Revisions adopt ASU 2014-15: <i>Presentation of Financial Statements – Going Concern</i> and incorporate audited disclosure requirements for a reporting entity to evaluate and disclose whether there is substantial doubt on the entity's ability to continue as a going concern. In addition, revisions to SSAP Nos. 48, 68 and 97 nonadmit investments in related affiliate holdings whose audited financial statements include going concern disclosures. Revisions are effective December 31, 2016 with early application permitted, consistent with the effective date of ASU 2014-15.	Y	Y	2016
2014-35	SSAP No. 11 – Postemployment Benefits and Compensated Absences	P&C Life Health	Revisions delete disclosures that pertain to defined benefit and defined contributions plans, with a reference to complete the disclosures in SSAP No. 92, <i>Accounting for Postretirement Benefits Other Than Pensions</i> , as applicable, if the reporting entity is providing special or contractual termination benefits.	N	Y	2015
2014-30	SSAP No. 36 – Troubled Debt Restructuring, SSAP No. 37 – Mortgage Loans and SSAP No. 40 – Real Estate Investments.	P&C Life Health	Revisions adopt with modifications ASU 2014-04: <i>Receivables – Troubled Debt Restructuring by Creditors – Reclassification of Residential Real Estate Collateralized Consumer Mortgage Loans Upon Foreclosure</i> and adopt ASU 2014-14: <i>Receivables – Troubled Debt Restructuring by Creditors – Classification of Certain Government-Guaranteed Mortgage Loans Upon Foreclosure</i> to prescribe the accounting and reporting for 1) foreclosed mortgage loans collateralized by real estate and 2) foreclosed mortgage loans guaranteed by a government sponsored program.	Y	Y	2015
2014-32	SSAP No. 74 – Accounting for the Issuance of Insurance-Linked Securities Issued by a Property and Casualty Insurer Through a Protected Cell	P&C Life Health	Revisions update the current blanks disclosure references from aggregate write-ins to the specific designated lines for protected cells.	N	Y	2015

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2014-37	SSAP No. 86 – Accounting for Derivative Instruments and Hedging, Income Generation, and Replication Transactions	P&C Life Health	Revisions reject ASU 2014-16: <i>Derivatives and Hedging, Determining Whether the Host Contract in a Hybrid Financial Instrument Issued in the Form of a Share Is More Akin to Debt or to Equity</i> as not applicable to statutory accounting.	N/A	N/A	N/A
2014-33	SSAP No. 92 – Accounting for Postretirement Benefits Other Than Pensions and SSAP 102 – Accounting for Pensions	P&C Life Health	Revisions incorporate the guidance from INT 13-03 – <i>Clarification of Surplus Deferral in SSAP No. 92 and SSAP No. 102</i> directly into the applicable SSAPs.	N/A	N/A	N/A
2014-34	Issue Paper No. 99 – Nonapplicable GAAP Pronouncements	P&C Life Health	Revisions reject ASU 2014-13: <i>Measuring the Financial Assets and Financial Liabilities of a Consolidated Collateralized Financing Entity</i> as not applicable to statutory accounting.	N/A	N/A	N/A

The SAPWG exposed the following items for written comments (due by May 21, 2015, except Ref # 2014-28 which has a shortened comment deadline of April 30, 2015) by interested parties:

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2015-03	SSAP No. 22 – Leases	P&C Life Health	<p>Substantive – Exposed agenda item requests comments on three agenda items related to sale-leasebacks:</p> <ol style="list-style-type: none"> 1. Incorporate guidance to clarify that the reference to “property” in the sale-leaseback section has the same scope as the full SSAP - property, plant or equipment (land or depreciable assets). This proposal also suggests clarifying the guidance specific to “real estate” versus “non-real estate.” 2. Incorporate guidance to clarify when sale-leaseback transactions involving nonadmitted assets shall follow the deposit method of accounting. (These revisions would be proposed to either require all such transactions to follow the deposit method of accounting, or, if the Working Group wants to allow these items, clarify that they are permitted within SSAP No. 22.) 3. Incorporate guidance / revisions to clearly identify and reflect the guidance adopted under GAAP. This proposal would incorporate the current GAAP guidance in ASC 840-40 to the extent that the pre-codification GAAP standards were adopted by the Working Group, with the modifications previously adopted unless items are specifically noted for reconsideration. <p>This agenda item has been developed in response to a number of questions presented to NAIC Staff related to transactions involving nonadmitted, non-real estate depreciating assets (e.g., software) being sold and leased-back. The intent of this agenda item is to clarify the history / scope of the existing guidance, and to request Working Group consideration on whether nonadmitted, non-real estate assets should be permitted or disallowed for sale-leaseback accounting.</p>	Y	N	TBD

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2014-25	SSAP No. 41 — Surplus Notes	P&C Life Health	Substantive – Exposed revisions to the measurement method for holders of non-rated surplus notes and surplus notes with a designation below NAIC 1. Proposed revisions reflect that surplus notes that are not rated or have a rating that is anything other than NAIC 1, shall be reported at the lower of amortized cost or fair value. Staff will subsequently be directed to draft a related Issue Paper.	Y	Y	TBD
2015-02	SSAP No. 86 – Accounting for Derivative Instruments and Hedging, Income Generation and Replication (Synthetic Asset) Transactions and SSAP No. 103 – Accounting for Transfers and Servicing of Financial Assets and Extinguishment of Liabilities	P&C Life Health	Substantive – Exposed item requests initial feedback on short sale transactions, particularly, if such transactions should be permitted within statutory accounting. The staff have received an increased number of questions on the appropriate statutory accounting for such as no explicit guidance regarding short sales currently exists in statutory accounting guidance.	TBD	TBD	TBD
2015-08	SSAP No. 97 – Investments in Subsidiary, Controlled and Affiliated Entities, A Replacement of SSAP No. 88	P&C Life Health	<p>Substantive – Exposed item requests comments on the following topics:</p> <ol style="list-style-type: none"> 1. Non-admitted assets in Non-Insurance SCA's – Staff is requesting feedback on whether guidance should be considered to a) restrict the amount of amount of assets held in an SCA that would not be admitted assets if held directly by the reporting entity and b) restrict or eliminate the extent to which nonadmitted assets can be transferred to an SCA and included in the reported value of the SCA. 2. SCA's Permitted or Prescribed Practices – Staff is requesting feedback on whether guidance should be considered to require that the value reported for investments in U.S. insurance SCAs: a) reflect statutory value as calculated per the AP&P Manual, and not the statutory value from the SCA's financial statements, which would include deviations from SAP through prescribed or permitted practices, b) reflect statutory value per the AP&P Manual, with allowances for prescribed practices only, with disclosure required in the reporting entity's financial statements regarding the SCA's prescribed deviations from SAP or c) allow the value reported for investments in U.S. insurance SCAs to be the statutory value as reported on the SCA's statutory financial statements (current guidance) with disclosure required in the reporting entity's financial statements regarding the SCA's prescribed and permitted practices that deviate from SAP. 3. Valuation of Non-Insurance SCAs Engaging in Insurance Activities (8bii) and Foreign Insurance Entities (8biv) – Staff is requesting feedback on whether guidance should be revised to clarify that a) the SCA entities captured within 8bii and 8biv be adjusted to a "full statutory accounting basis"? (With this option, it would be proposed that the specific adjustments in SSAP No. 9 be removed, with an overall reference to make adjustments to comply with the AP&P Manual.) or b) the SCA entities captured within 8bii and 8biv do not reflect a "statutory basis of accounting" but rather reflect a value determined after applying limited adjustments per paragraph 9 to their underlying US GAAP or foreign statutory financial statements. 	TBD	TBD	TBD

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2015-06	SSAP No. 24 – Discontinued Operations and Extraordinary Items	P&C Life Health	Nonsubstantive – Exposed revisions to adopt with modification <i>ASU 2015-01: Income Statement – Extraordinary and Unusual Items</i> . The modifications would prevent reporting entities from recognizing events or transactions that are unusual in nature or infrequent in occurrence as a separate component of operations, but would require disclosure for these transactions.	Y	Y	2015
2015-07	SSAP No. 24 – Discontinued Operations and Extraordinary Items	P&C Life Health	Nonsubstantive – Exposed revisions to adopt with modification <i>ASU 2014-08: Reporting Discontinued Operations and Disclosures of Disposal of Components of an Entity</i> . The proposed modifications are generally consistent with existing guidance to prohibit separate reporting of discontinued operations, prohibit gain recognition until the disposal transaction is complete and not require all GAAP disclosures.	Y	Y	2015
2014-36	SSAP No. 25 – Accounting for and Disclosures about Transactions with Affiliates and Other Related Parties	P&C Life Health	Nonsubstantive – Exposed revisions to reject <i>ASU 2013-06: Not-for-Profit Entities; Services Received from Personnel of an Affiliate</i> and incorporate references and enhanced disclosure for transactions between affiliates.	N	Y	2015
2015-04	SSAP No. 26 – Bonds, Excluding Loan Backed and Structured Securities	P&C Life Health	Nonsubstantive – Exposed revisions to require prepayment penalties and acceleration fees to be reported as realized capital gains, clarify the yield-to-worst concept for continuously callable bonds, and revise the guidance for bonds with make-whole call provisions.	Y	Y	2015
2013-36	SSAP No. 26 – Bonds, Excluding Loan Backed and Structured Securities	P&C Life Health	Nonsubstantive – Exposed the following discussion documents to assist with the consideration of revisions under the Investments Classification Project: 1. Proposal to include a definition for “security;” 2. Proposal to require a “contractual amount of principle due;” 3. Analysis of exchanged traded fund (ETF) investments approved for reporting as bonds or preferred stocks as of December 31, 2013; and 4. Definitions of non-bond items.	TBD	TBD	TBD
2015-11	SSAP No. 40R – Real Estate Investments	P&C Life Health	Nonsubstantive – Exposed revisions to clarify when an encumbrance on wholly owned real estate held in an LLC is allowed for real estate (Schedule A) reporting.	N	Y	2015
2015-01 & 2014-27	SSAP No. 54 – Individual and Group Accident and Health Contracts	P&C Life Health	Nonsubstantive – Exposed revisions to adopt the definition of “charity care” from <i>ASU 2010-23: Health Care Entities, Measuring Charity Care</i> , adopt with modification the ASU 2010-23 charity care disclosures, and clarify the reporting of premium adjustments for contracts subject to redetermination.	Y	Y	2015
2014-31	SSAP No. 61R – Life, Deposit-Type Contracts and Accident and Health Reinsurance	P&C Life Health	Nonsubstantive – Exposed revisions to incorporate a disclosure related to an audited note on compliance with XXX/AXXX Reinsurance Model Regulation or Actuarial Guideline 48, or state variation of the standard, effective for reporting periods ending on or after December 31, 2015.	N	Y	2015
2014-28	SSAP No. 62R – Property Casualty Reinsurance	P&C	Nonsubstantive – Exposed revisions to decrease the provision for reinsurance liability in Schedule F related to an asbestos and environmental reinsurance reporting exception for retroactive counterparties. Shortened Comment Deadline – April 30, 2015	N	Y	2015

Reference	Title	Sector	Amendments adopted as final	Financial statement impact	Disclosure	Effective date
2014-24	SSAP No. 93 – Accounting for Low Income Housing Tax Credit Property Investments	P&C Life Health	Nonsubstantive – Exposed revisions to adopt with modification <i>ASU 2014-01: Accounting for Investments in Qualified Affordable Housing Projects</i> and explicitly identify that the proposed revisions effectively continue the existing balance sheet treatment, referred to as proportional amortized cost, and gross income statement presentation.	Y	Y	2015
2015-05 & 2015-09	Various SSAPs	P&C Life Health	Nonsubstantive – Exposed revisions to modify (shorten) current SSAP titles and incorporate technical edits, including modifications to SSAP No. 106, Affordable Care Act Assessments, fee disclosure to ensure consistent reporting of the RBC impact.	N	Y	2015
2015-12	A-821 – Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities	Life Health	Nonsubstantive – Exposed revisions to include the 2012 Individual Annuity Table into Appendix A-821, effective January 1, 2015.	Y	N	2015

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Acronyms

AAA	American Academy of Actuaries
ACLI	American Council of Life Insurers
AEP	Aggregate Exceedance Probability
ASB	Actuarial Standards Board
BCBS	Basel Committee on Banking Supervision
BCR	Basic Capital Requirements
CDA	Contingent Deferred Annuity
ComFrame	Common Framework for the Supervision of Internationally Active Insurance Groups
FIO	Federal Insurance Office
FSAP	Financial Sector Assessment Program
FSB	Financial Stability Board
GAAP	Generally Accepted Accounting Principles
G-SIFI	Global Systemically Important Financial Institution
G-SII	Global Systemically Important Insurer
HLA	Higher Loss Absorbency
IAIG	Internationally Active Insurance Group
IAIS	International Association of Insurance Supervisors
ICS	Insurance Capital Standard
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
MOCE	Margin Over Current Estimates
NAIC	National Association of Insurance Commissioners
NOLHGA	National Organization of Life and Health Insurance Guaranty Associations
OEP	Occurrence Exceedance Probability
ORSA	Own Risk and Solvency Assessment
PBR	Principle-Based Reserving
PCI	Property Casualty Insurers Association of America
RAA	Reinsurance Association of America
RBC	Risk-Based Capital
SEC	Securities and Exchange Commission
SoA	Society of Actuaries
SVO	Securities and Valuation Office
TLAC	Total Loss Absorbing Capacity

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