National Association of Insurance Commissioners (NAIC) Spring 2022 Meeting Summary

The National Association of Insurance Commissioners (NAIC) recently held its Spring National Meeting virtually and in person in Kansas City, Missouri. This summary highlights issues that various NAIC groups addressed at the recent meeting.

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What You Need to Know:

- The Innovation, Cybersecurity & Technology (H) Committee met for the first time and discussed an operational framework for coordinated efforts on related workstream activities in other NAIC Committees.
- The Long-Term Care Insurance Multistate Actuarial Review Framework (LTCI MSA Framework) was adopted and is expected to be operational by September 2022.
- A redesigned NAIC Climate Risk Disclosure Survey was adopted.
- The *Accelerated Underwriting in Life Insurance Educational Report* was adopted by the Life Insurance and Annuities (A) Committee.
- An amended Macroprudential Risk Assessment Process was adopted that is meant to clarify certain points and to conform to industry feedback.
- The Valuation of Securities (E) Task Force discussed comments on a number of amendments to the Purposes and Procedures Manual of the NAIC Investment Analysis Office
- The (H) Committee will be launching the Innovation, Cybersecurity & Technology ("ICT") Hub that will serve as a portal of resources that relate to relevant topics and issues to facilitate awareness and communication around what related NAIC groups are working on.
- The Special (EX) Committee on Race and Insurance met and discussed relevant work by its various workstreams.
- The Health Insurance and Managed Care (B) Committee received an update from the Federal Centers for Medicare & Medicaid Services' (CMS's) Center for Consumer Information and Insurance Oversight (CCIIO) on its Recent Activities and Federal No Surprises Act (NSA) Implementation.

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Joint Meeting of the Executive (EX) Committee and Plenary

The Joint Meeting of the Executive (EX) Committee and Plenary took place on Friday, April 8, 2022 at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

*Consider Adoption of the Long-Term Care Insurance Multistate Actuarial Review Framework (LTCI MSA Framework)

Commissioner Scott White (VA) explained that, on December 12, 2021, the Long-Term Care Insurance (EX) Task Force adopted the LTCI MSA Framework. This Framework outlines a process for a timely, consistent, state-based approach for reviewing LTC rate increase filings. Through the use of the framework, regulators hope to reduce or eliminate existing cross-state rate inequities. The Framework outlines the operational and actuarial aspects of a rate review and the benefits of using the MSA process, and contains a detailed rate advisory report. Commissioner White emphasized that states will retain the authority to perform their own review and make their own determinations related to final rate approval. Upon adoption, the MSA process is expected to be operational by September 2022.

The LTCI MSA Framework was adopted without objection, and is included in the meeting materials as Attachment One.

Ratify Selection of State Insurance Regulator Representative on the Financial Stability Oversight Council (FSOC)

Director Dean L. Cameron (ID) explained that Superintendent Elizabeth Dwyer (RI) was selected to take the place of, now retired, Superintendent Eric Cioppa to serve as the NAIC's member representative on the Financial Stability Oversight Council ("FSOC").

A motion to ratify Superintendent Dwyer's appointment passed without objection.

Consider Adoption of the April 6 Report of the Executive (EX) Committee

The April 6 Report of the Executive (EX) Committee was received, and is included in the meeting materials as Attachment Two.

Consider Adoption of a Proposal to Establish a Catastrophe Modeling "Center of Excellence" within the NAIC's Center for Insurance Policy & Research - Commissioner David Altmaier (FL)

Director Cameron explained that the Committee determined that no formal vote was necessary to adopt the Proposal to Establish a Catastrophe Modeling "Center of Excellence" within the NAIC's Center for Insurance Policy & Research, and the next step will require the Center of Excellence to submit a fiscal to the Committee. The Report of the Executive (EX) Committee was received.

The Proposal is included in the meeting materials as Attachment Three.

<u>Consider Adoption of the Proposed Redesigned NAIC Climate Risk Disclosure Survey</u>

Director Cameron explained that the Committee determined that no formal vote was necessary to adopt the Proposed Redesigned NAIC Climate Risk Disclosure Survey, since the Survey is voluntary and limited only to participating member states. The Report of the Executive (EX) Committee was received.

The Proposed Survey is included in the meeting materials as Attachment Four.

<u>Consider Adoption by Consent the Committee, Subcommittee and Task Force Minutes of the 2021 Fall National Meeting, Dec. 13-16, 2021, except for items noted with an asterisk (*)</u>

The Committee, Subcommittee and Task Force Minutes of the 2021 Fall National Meeting, except for items noted with an asterisk (*), were adopted without discussion or objection.

<u>Reports from the following Committees were received, and summaries of the Reports are provided in the meeting materials</u>:

- Life Insurance and Annuities (A) Committee - Attachment Five
- Health Insurance and Managed Care (B) Committee - Attachment Six
- Property and Casualty Insurance (C) Committee - Attachment Seven
- Market Regulation and Consumer Affairs (D) Committee - Attachment Eight
- Financial Condition (E) Committee - Attachment Nine
- Financial Regulation Standards and Accreditation (F) Committee - Attachment Ten
- International Insurance Relations (G) Committee - Attachment Eleven
- Innovation, Cybersecurity, and Technology (H) Committee - Attachment Twelve

<u>Receive a Status Report of the State Implementation of NAIC-Adopted Model Laws and Regulations</u>

The Status Report of the State Implementation of NAIC-Adopted Model Laws and Regulations was received without discussion, and it is included in the meeting materials as Attachment Thirteen.

The meeting materials can be found here.

Executive (EX) Committee

The Executive (EX) Committee (the "Committee") met on Tuesday, April 6, 2022 at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

Consider Adoption of the April 4 Report of the Executive (EX) Committee and Internal Administration (EX1) Subcommittee

Director Dean L. Cameron (ID), Chair of the Committee, explained that, during this meeting, the Subcommittee heard updates on several operational matters and voted to establish the new avenues of insurance careers foundation.

The April 4 Report of the Executive (EX) Committee and Internal Administration (EX1) Subcommittee was adopted without further discussion or objection.

Consider Adoption of its Interim Meeting Report - March 21, Feb. 3, and Jan. 14 Meetings

The Interim Meeting Report for the March 21, February 3, and January 14 meetings was adopted without discussion or objection.

Consider Adoption of its Task Force Reports

Climate and Resiliency Task Force

Commissioner David Altmaier (FL) provided a brief report concerning (1) a Proposal to establish a Catastrophe Modeling "Center of Excellence" within the NAIC's Center for Insurance Policy & Research, and (2) consider the proposed redesigned NAIC Climate Risk Disclosure Survey.

With regard to the Catastrophe Modeling "Center of Excellence," Commissioner Altmaier explained that the Task Force was charged to evaluate the use of modeling, by carriers and their reinsurers, concerning climate risk. In order to facilitate that work, the Technology Workstream exposed a proposal last September for the NAIC Center for Insurance Policy and Research (CIPR) to create a Catastrophe Modeling "Center of Excellence." The Center of Excellence has three goals in mind: (1) to provide insurance departments with access to catastrophe modeling documentation and aid regulators in distilling technical information; (2) to work with catastrophe model vendors to develop education and training materials for state insurance regulators; and (3) to conduct a applied research using models to explore options for improving resiliency from natural hazards. The Workstream received positive feedback concerning the Proposal, adopted the Proposal on November 22, 2021, and exposed the recommendation to the Task Force on December 14, 2021. The Proposal was adopted unanimously on March 21, 2022.

The Proposal for the CIPR to create a Catastrophe Modeling "Center of Excellence" was adopted without objection.

With regard to the NAIC Climate Risk Disclosure Survey, Commissioner Altmaier explained that the Task Force was charged with considering appropriate climate risk disclosures within the insurance sector, including the evaluation of the Climate Risk Disclosure Survey and alignment with other sectors and international standards. The Climate Risk Disclosure Workstream completed this work, and adopted the Survey on March 11, 2022. The revised Survey is aligned with the Financial Stability Board's Task Force for Climate-Related Financial Disclosure Framework (TCFD). The Survey includes guiding questions specific to insurance, and will remain a voluntary tool for states to use at their discretion. The Survey provides a considerable amount of leeway for state insurance regulators to offer insurers in terms of content reported and timelines for submission. The Workstream held multiple exposure periods and made changes accordingly. Commissioner Altmaier stated that the Survey provides state insurance regulators with a supervisory tool to assess how climate-related risks may impact the insurance industry, while allowing flexibility for states. On March 21, 2022, the Task Force voted to adopt the Survey.

A motion was made to adopt the Survey. A substitute motion was made to amend the Survey to allow for companies that cross the $100M threshold to have a Survey deadline of the following calendar year. After a brief discussion, the substitute motion failed. The original motion to adopt the NAIC Climate Risk Disclosure Survey passed without objection.

The following reports were adopted without discussion or objection:

- Government Relations (EX) Leadership Council
- Long-Term Care Insurance (EX) Task Force
- Special (EX) Committee on Race and Insurance

<u>Consider Disbanding the System for Electronic Rates & Forms Filing (SERFF) Advisory Board</u>

Commissioner Barbara D. Richardson (NV) explained that the NAIC has taken a multi-year project to modernize the SERFF platform. As part of this project, the NAIC has been reviewing the governance of the SERFF system, as well as looking at how best to streamline input from regulator, industry, and consumer input. The proposal is to disband the current SERFF Advisory Board due the overlap of its responsibilities with the Committee, the Speed to Market (H) Working Group, and others. Commissioner Richardson emphasized that consumer and industry input will continue to be taken into consideration throughout this process.

A motion to disband the SERFF Advisory Board was made, and it passed without objection.

<u>Receive the 2021 Annual Report of NAIC Designation Program Advisory Board Activities</u>

According to the Advisory Board, In October of 2006, the NAIC launched the Insurance Regulator Professional Designation Program ("Designation Program"), a formal credentialing program designed for regulators, by regulators, to establish structured training and development paths for insurance department employees. Commissioner Sharon P. Clark (KY) stated that, in 2021, there were over 3,000 enrollments in the Designation Program. By year-end, state insurance regulators earned 1,704 designation, and all but one territory has at least one employee enrolled in the Designation Program.

The Advisory Board met in 2021 to discuss the future of the Designation Program, and Commissioner Clark referred to the chart in Attachment Five of the materials to highlight the progress of the Designation Program. There is a state mentoring program, and the mentor list can be found here. The 2021 Report of the NAIC Designation Program Advisory Board was received.

Receive a Status Report on NAIC State Ahead Implementation

Director Cameron explained that State Ahead is a strategic plan for the NAIC intended to further advance the products services and support that the NAIC provides to state insurance regulators in order to better meet the changing regulatory environment. Director Cameron stated that NAIC staff team continues to make progress on many of the related projects, and further results will be provided before the next National Meeting.

Receive a Status Report on Model Law Development Efforts

Director Cameron referenced Attachment 7 without further discussion.

Hear an Oral Report from the National Insurance Producer Registry (NIPR) Board of Directors

Director Larry D. Deiter (SD) said that the NIPR Board of Directors held a meeting on April 4, 2022 and accepted the 2021 independent financial audit. The financial audit is part of the 2021 annual report which can be found here.

The annual report highlights NIPR's 2021 accomplishments, including (1) the processing 42.5 million credentialing and reporting transactions, a year-over-year increase of 11.8%; (2) $61.6 million in revenue, $13.6 million over 2020, representing a 29% increase; (3) $1 billion in fees moved by NIPR to departments of insurance, an increase of 13.5%; and (4) Over 7.9 million records in the Producer Database representing a 3% increase from 2020.

Director Deiter highlighted certain NIPR initiatives that are important to its mission of offering streamlined producer licensing services. First, the Contact Change Request (CCR) for business entities expands the CCR product to give businesses the ability to change their contact information easily through nipr.com. This service is being used by 31 state insurance departments, and has processed over 18,000 transactions. NIPR is now also processing producer terminations and appointments for all states.

Hear an Oral Report from the Interstate Insurance Product Regulation Commission (Compact)

Commissioner Kathleen A. Birrane (MD) shared that the Compact held a joint meeting with the Management Committee on April 5, 2022. During the meeting, amendments to the bylaws were adopted as a result of recommendations made during the 2021 independent governance review. An additional amendment was added that formalized the position of Past Chair, which is the member who served as Chair in the previous term. This change was meant to assure continuity and consistency in of leaderships. The Compact also voted to stay the effectiveness of the uniform standard for in force rate increases for South Carolina for 120 days, as a result of South Carolina's decision to withdraw from the Compact.

The Compact received a favorable independent audit report on its financials and internal controls. The Compact ended 2021 with positive revenue of $700,000.00, and the Compact made its third of ten annual payments to the NAIC to service the outstanding debt. Last, the Company Governance Committee reported that it will soon release its recommendations with respect to implied congressional consent, and the recommendations are a result of a Colorado Supreme Court ruling questioning the Compact and the outside counsel governance reviews.

Commissioner Birrane reported that there are two new members of the Compact's Consumer Advisory Committee: Former Nebraska Insurance Director Bruce Ramge and Former West Virginia Insurance Commissioner Jane Cline.

The meeting materials can be found here.

Special (EX) Committee on Race and Insurance

The Special (EX) Committee on Race and Insurance (the "Committee") met on Wednesday, April 6, 2022 at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

The Committee previously met on December 14, 2021 at the NAIC Fall National Meeting, and the minutes from that meeting were adopted without objection. The minutes of the December 14 meeting can be found here.

Receive a Status Report from its Workstreams

Prior to the reports on behalf of the Workstreams, Director Chlora Lindley-Myers (MO), Co-Chair of the Committee, explained that the NAIC is monitoring efforts by the House Financial Services Subcommittee on Diversity and Inclusion. The Subcommittee plans to hold a hearing and produce a report on diversity, equity, and inclusion ("DE&I") in the insurance sector. NAIC staff has met with Chairwoman Waters about this effort and will continue to follow the work being done.

Workstream One

Executive Deputy Superintendent of Insurance My Chi To (NY) explained that Workstream One is charged with continued research and analysis to identify issues and develop specific recommendations on action steps that state insurance regulators and companies can take to improve the level of diversity and inclusion in the industry, including: (1) seeking additional engagement from stakeholders to understand the efficacy of diversity-related programs, how companies measure their progress, and what state insurance regulators can do to support these efforts, and (2) collecting input on any existing gaps in available industry diversity-related data.

Ms. To said that the Workstream has met many times in regulator only sessions and open calls, and has also held many informal conversations with companies and associations regarding its charges. She stated that the testimony across all conversations and testimony has been fairly consistent, in that it has recognized that the industry can and should do more to improve the level of DE&I within its ranks, but also that the level of industry commitment and engagement has seen great improvement. Ms. To shared that the Workstream is currently working to create proposed recommendations and action steps based on the information that it has heard.

Workstream Two

Commissioner Sharon P. Clark (KY) explained that Workstream Two has gathered responses to its survey examining the best practices and initiatives that state insurance departments may consider when promoting DE&I in their departments. The Workstream plans to meet soon in order to decide what method its will use to share its findings with regulators.

Commissioner Glen Mulready (OK) added that much of the Workstream's work has been conducted through the State Diversity Leader's Forum. The Forum provides a space for diversity leaders in each state to discuss best practices in promoting DE&I in their respective insurance departments.

Workstream Three

Director Lori K. Wing-Heier (AK) shared that much of the Workstream's focus has been on how to address the following charge: continue research and analysis of insurance, legal, and regulatory approaches to addressing unfair discrimination, disparate treatment, proxy discrimination, and disparate impact, and make recommendations for statutory or regulatory changes and additional steps, including developing analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination in property casualty insurance.

The leadership of Workstream Three, the Innovation Cybersecurity and Technology (H) Committee, the Accelerated Underwriting (A) Working Group, the Big Data and Artificial Intelligence (H) Working Group, and the Casualty Actuarial and Statistical (C) Task Force have engaged in conversations and heard presentations related to unfair bias in algorithmic auditing, and plan to engage other experts, consultants, academics, startups, etc. in similar discussions. The Workstream recently reviewed it charges and discussed how to best approach them.

Workstream Four

Director Judith L. French (OH) stated that, although the Workstream has not yet met in 2022, it plans to focus on the part of its charges that asks the Workstream to research and analyze marketing, distribution, and access to life insurance products in minority communities, including the role that financial literacy plays. The Workstream has been exploring options for presentations that might be able to further this charge, and Director French said that there have been meetings with representatives of Nationwide Insurance. Nationwide Insurance is a charter member of the Financial Alliance for Racial Equity ("FARE"), which is a partnership of financial service organizations, associations, and Historically Black Colleges and Universities.

The Workstream plans to schedule a panel presentation with members of FARE, and plans to invite the other workstreams to participate. The goal is to present regulators and the NAIC with practical strategies and opportunities for better meeting the needs of underserved communities.

Workstream Five

Commissioner Kathleen A. Birrane (MD) explained that the Workstream's focus will center on: (1) identifying demographic-based barriers to the acquisition and use of health insurance, and creating strategies for removing those barriers, and (2) understanding the role health insurance can play in addressing inequities in health outcomes and social determinants of health.

With respect to the first objective, the Workstream decided that it would focus on benefit design and consumer empowerment and engagement. Benefit design includes an examination of provider network design and benefit structures, and consumer empowerment and engagement will involve an analysis of successful strategies for enrollments and for facilitating consumer understanding of how to access care through insurance and how to navigate claims issues. The intent for the final work product is the development of a guide for regulators that compiles information about barriers and presents potential tools and strategies that individuals can use in their states to address these barriers.

For the second objective, the Workstream discussed holding listening sessions with community-based individuals and organizations who work with various underserved and underrepresented populations in order to facilitate a basic understanding of how insurance can impact the health outcomes and social determinants of health.

Discuss the Innovation, Cybersecurity, and Technology (H) Committee Collaboration Forum – Detecting and Addressing Unfair Bias

Commissioner Birrane echoed her presentation regarding the (H) Committee's new Collaboration Forum given during the Innovation, Cybersecurity & Technology (H) Committee on April 5, 2022.

The Collaboration Forum will serve as a platform for coordination and collaboration among related groups on innovation, cybersecurity, and technology ("ICT") topics that are of broad impact. This is to ensure that foundational matters are addressed and decided with the full complement of subject matter experts and disciplines involved. Commissioner Birrane said that there are very few things in the insurance industry that are not impacted by ICT issues, and when those issues are being addressed by multiple groups, it is important to consider where a common framework is necessary so that each group can address their charges with all of the available resources and information. Projects within the Collaboration Forum will be established when there is a consensus, and the members will be the leadership of each of the involved NAIC groups and any other states that wish to join. There will be a Chair and Vice Chair as needed, and the project members will identify the scope of their collaborative work.

The first project of the Collaboration Forum will be the "algorithmic bias project." This will be focused on methods that can be used by regulators to detect unfair bias in evaluating models used by insurers. The goal is provide a practical guide for regulators that identifies the concerns, and provides viable options and tools for regulators to use.

Hear Update on the State Diversity Leaders Forum

Evelyn Boswell, NAIC Director of Diversity, Equity, and Inclusion, shared an update regarding Workstream Two and the Diversity Leaders Forum. Ms. Boswell explained that the charges for Workstream Two are to receive reports on NAIC DE&I efforts, serve as the coordinating body for state requests for assistance from the NAIC related to DE&I efforts, and research best practices among state insurance departments on DE&I efforts and develop forums for sharing relevant information among states and with stakeholders, as appropriate.

Ms. Boswell stated that the mission of the Diversity Leaders Forum is to create a communication forum for best practices in DE&I in which each jurisdiction's insurance department has access to education, guidance, and collaboration with stakeholders, can share and learn ideas to incorporate in their organizations, offer feedback for regulatory training coursework that will be provided by the NAIC, and enable the NAIC and its regulated entities to fully fulfill their missions. In order to accomplish that mission, Ms. Boswell said that she will be gathering the state diversity leaders in a virtual forum to discuss the best practices. The next step will be to create coursework for regulators.

The goal is to finalize and launch a SharePoint page in Q2 of 2022, review the DE&I curriculum in Q2 of 2022, and launch the regulator coursework in Q4 of 2022. Ms. Boswell stated that there are currently 20 states, as well as D.C., and 3 territories involved in the Diversity Leaders Forum, and she is hoping that this number increases. Ms. Boswell also navigated through the current SharePoint site to explain how it works and how to use it.

The recommendations from the Diversity Leaders Forum is that the states will communicate to their departments that the coursework will be available in Q4, set expectations on when coursework should be reviewed, and ensure that the coursework is completed with a score of 80% or higher.

Important upcoming dates include a WebEx meeting of the Diversity Leaders Forum on April 25, 2022, and the Second Annual DE&I Conference on June 8, 2022.

Director Dean Cameron (ID), Co-Chair of the Committee, briefly highlighted the announcement of the formation of the New Avenues in Insurance Careers Foundation (the "Foundation"). Director Cameron explained that the formation of the Foundation is an important step in furthering access, by providing a pipeline to careers that are available in the insurance and insurance regulatory realm.

The presentation can be found here.

Climate & Resiliency (EX) Task Force

The Climate and Resiliency (EX) Task Force met on Wednesday, April 6, 2022 at the NAIC Spring National Meeting. Below is a summary of the meeting:

The Task Force previously met on March 21, 2022, and the minutes from that meeting were adopted without objection.

Hear a Presentation from Zurich North America and Resilient Cities Network Regarding Their Partnership to Improve Community Resilience

Commissioner Ricardo Lara (CA) shared that, last year, Zurich North America ("Zurich") and Resilient Cities Network ("RCN") partnered to mitigate the effect of natural hazards in vulnerable communities in Houston, TX and Boston, MA. Earlier this month, they established a resilient community impact fund to facilitate investment in resiliency.

Brandon Fick, Chief Underwriting Officer for Zurich began the presentation by explaining why the partnership between Zurich and RCN is important to Zurich. First, Mr. Fick stated that climate change is one of the most complex risks we are dealing with as a society, because it is international, intergenerational, and interconnected. The damage of climate change is happening in real time, and Zurich wants to help its customers in combating any related, increasingly dangerous challenges. Mr. Fick explained that Zurich was one of the first companies to sign up for the UN 1.5 °C pledge, and was one of the founding members of the UN Net-Zero Insurance Alliance (NZIA). Through this work, Zurich realized that there was much more work to be done.

Mr. Fick stated that Zurich leans heavily into its charitable foundation, the Z Zurich Foundation. Two of Z Zurich's key pillars, social equity and climate change adaptation, blend together in this project. Mr. Fick explained that climate events disproportionately affect vulnerable communities and communities of color, and this led to the decision to select Houston and Boston as the first two action cities for the partnership's project. Both areas have high levels of poverty, large, underserved populations, and the leaders of these cities have identified these issues and the need to address social equity when working toward solutions. The goal is to work extensively with local government bodies in order to provide adequate expertise and support. Next, Mr. Fick pointed out that this is not a project that can be taken on alone. Zurich and RCN share similar views on climate change, social equity, and related key issues, which ultimately led to a partnership that allows for the sharing of tools and resources to more successfully tackle these issues. The partnership lasts for three years, but Mr. Fick stated that the intent it to take the lessons learned in this project and use this information to expand into other vulnerable communities.

Stewart Sarkozy-Banoczy, Global Director of Policy and Investments at RCN, emphasized that the partnership is crucial for the resilience movement, especially in light of the most recent IPCC Climate Change Assessment Report. The message in the last report was "now or never", but Mr. Sarkozy-Banoczy stated that the partnership is focusing on the "now" and the future. The goal of the partnership is to build holistic, equitable resilience by engaging in "pre-covery", rather than recovery, because resilience must include both mitigation and adaptation to climate change. RCN is city-led, impact-focused, regionally-driven, and partnership-based, which is why bringing philanthropic groups and corporations together to tackle this issue is so effective. Mr. Sarkozy-Banoczy explained that RCN empowers, mobilizes, and implements where the stresses collide in vulnerable populations.

The partnership has been going strong according to Mr. Sarkozy-Banoczy. Over the last nine months, the action cities have been selected, meetings have been held, site visits have been conducted, the flood resilience measurement for communities ("FRMC") tool has been previewed and trained on, the community selection inside the action cities has begun, the joint organization committees have been formed, and there has been a call for co-funding for the RCN impact fund ("RCIFund"). The project is aimed to directly engage the communities served, train them, and empower them. This approach is thought to create a better multi-hazard tool that will signal how resilient a community is. The lessons, models, testing, and tools will be used to move into other cities as the work continues.

Mr. Sarkozy-Banoczy said that measuring resilience will be done through the use FRMC tool, and the evolution of this tool for multi-hazard use. The tool will eventually add heat and equity to the mix, which will be done in order to test additional stresses. The tool is one of the pathways to start learning how we can count return on resilience value ("RRV"). In addition to the FRMC tool, the partnership is also looking at more broad sweeping tools and assessments. Moving forward, the partnership is getting closer to the point where the two action cities will choose their testing communities, and where it is beginning to get communities trained on using the new version of the tool. Once this happens, projects can be selected and funded, and results will start to unfold. Although measuring what the partnership intends to change will be difficult, it continues to seek expertise, assistance, and funding to expand and move the project forward.

Hear a Presentation from Munich Re Regarding Solutions to Improve Community Flood Mitigation

Commissioner David Altmaier (FL) explained that Munich Reinsurance America, Inc. ("Munich Re") focuses on the development of innovative products designed to cover various natural catastrophe exposures.

Raghuveer Vinukollu, Senior Vice President for Climate Resilience and Solutions at Munich Re, gave a presentation about a project that Munich Re undertook to create community-based insurance and implement nature-based solutions to improve flood resiliency along the Missouri River. Mr. Vinukollu said that Munich Re believes that resilience can be achieved as a two-fold approach, namely, increasing both the insurance penetration and community-level risk mitigation. When thinking about the relationship of climate change and risk in general, Mr. Vinukollu said that the state of the climate has been defined for the next 20-30 years, thus, adaptation is key. While long-term mitigation is important, short-term adaptation for local communities is crucial, and it involves things like data analytics, information, best practices, building codes and construction, land use, etc.

Munich Re partnered with the Nature Conservancy and the University of California Santa Cruz to conduct this study and create a technical paper. To begin the discussion of the project, Mr. Vinukollu stated that we must start combining the discussions on risk mitigation with risk transfer. As explained in the technical paper, when combined, risk mitigation and risk transfer offer a more complete and sustainable approach to resilience. Mitigation better protects communities, and lower cost risk transfer (insurance) provides more individuals and businesses with the means to recover and rebuild their communities. Additionally, when combined, the cost for risk mitigation appears more reasonable and premiums will start to decrease over time. The focus of this particular project on community flood resilience insurance as it relates to inland flooding. Mr. Vinukollu explained that, in a stable environment, the two variables at play are generally the underlying value at risk and the standard deviation. Climate change has caused both variables to increase, directly impacting insurance premiums.

The details of the study are illustrated in the meeting presentation. The study was conducted along the Missouri River in Missouri and Nebraska. To summarize, the data revealed that the protection gap for flooding is very high. For the entire states combined, there were about 16,000 policies total, meaning the resilience of the communities after a flooding event is sure to be compromised. The study focused particularly on areas that were near a completed levee setback project, at a site where the levee previously failed. The 2019 floods of the Missouri River cost the country approximately $20B, and the protection gap at that time was only $200M of the total. When this levee was being rebuilt, a nature-based solution was desired. A levee setback was the solution.

The benefit of the levee setback was a 160-200 year protection rather than the standard 50-year protection. The findings of the study indicated that the premiums decreased significantly with the implementation of a community-based risk mitigation approach, i.e., the levee setback. For more detail, the published technical paper can be found here.

Hear a Federal Update

Brooke Stringer (NAIC) explained that there were three items in her update. First, the SEC proposal that was released on March 21, 2022 is something that the NAIC will continue to monitor. Specifically, according to the SEC's press release, the proposed rule changes would require registrants to include certain climate-related disclosures in their registration statements and periodic reports, including information about climate-related risks that are reasonably likely to have a material impact on their business, results of operations, or financial condition, and certain climate-related financial statement metrics in a note to their audited financial statements. Next, as a follow up to the Task Force, Ms. Stringer stated that we will finally see a report from the Federal Insurance Office concerning climate risks by the end of the year. Last, there are two pieces of legislation that the NAIC is monitoring. First, Senator Feinstein (CA) and Representative Thompson's (CA) Disaster Mitigation and Tax Parity Act would ensure that state-based disaster mitigation grants would receive the same federal tax exemptions that FEMA grants receive. The NAIC continues to support this Bill. Next, the Community Disaster Resilience

Zones Act has been introduced in Congress, and recently passed the Senate Homeland Security and Governmental Affairs Committee. The NAIC is monitoring this Act.

The meeting materials can be found here, and the biographies of the three speakers can be found here.

Life Insurance and Annuities (A) Committee

The NAIC Life Insurance and Annuities (A) Committee met on Thursday April 7 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Consider Adoption of its 2021 Fall National Meeting Minutes —Director Judith L. French (OH)

Meetings were updated.

Consider Adoption of the Accelerated Underwriting (A) Working Group Report—Commissioner Grace Arnold (MN)

The working group met on February 23, 2022 and on March 4, 2022. The working group reviewed a draft of the Accelerated Underwriting (AU) in Life Insurance Educational Report and unanimously adopted the Report. Exposures were released via section with comments incorporated into the next working draft. Stakeholders had multiple times to comment from 2020 to 2021. The final paper was exposed for comment in November 2021 and revised in January 2022. The March 4 draft was adopted at March 24, 2022 meeting. The report is intended to be an educational document and identifies issues and makes recommendations.

New York asked about next steps because it is not convinced that the charge was met with this report. Commissioner Arnold explained that the next step will likely be to develop regulatory guidance to provide something more concrete for regulators to use. New York asked if guidance would answer concerns that Birny Birnbaum previously discussed related to use of external data. The group has several ideas moving forward.

Mr. Birnbaum explained that the Center for Economic Justice does not think this report does much and that it is time to move on from the report. He asked the working group to work on more specific guidance, such as, broadening consumer credit information protection laws to include life insurance. Further, biometric information is highly biased against people of color so he stated that the group should target this issue as well. In total, CEJ's comments discuss 10 specific issues and want concrete guidance. He asked the group to move away from general statements and instead focus on specific guidance. Peter Kochenburger (University of Connecticut School of Law) echoed these concerns.

The motion passed with New York abstaining which included adoption of the *Accelerated Underwriting in Life Insurance Educational Report*.

Hear a Federal Update and Discuss the Implications of the U.S. Department of Labor (DOL) Fiduciary Rule—Brooke Stringer (NAIC)

The DOL has a role in the administration and enforcement of standards related to retirement plans and products. It is anticipated that the DOL will unveil a new fiduciary rule for retirement advice. NAIC is unsure how that definition of fiduciary will change, but it could look similar to previous administrations. It was originally finalized under the Obama Administration, which required retirement advisors to put client's interests above their own. The Fifth Circuit vacated this rule in 2018. Then, the next administration released a rule in 2020 with some exceptions. The current administration delayed enforcement of this rule, so this is where the fiduciary rule stands now. The DOL has indicated it will put forth further guidance and will engage in rule making. The NAIC has never taken a position on the fiduciary rule. Thus, it wants feedback and perspectives as the NAIC moves forward with engaging with DOL officials. It wants to hear from stakeholders and interested parties.

ACLI and IRI spoke together. They feel that a fiduciary rule is not a bad standard. The challenge of what the DOL is attempting to do is to make it a fiduciary only standard, which eliminates commission-based sales. Such a rule would adversely impact the consumers given that many only meet once to plan retirement. This committee has come up with a strong revised standard of care, which has been adopted in 21 states and is pending in 9 states. The one important thing is for state regulatory committees to have their voices heard in front of the DOL. There is a distinction between fiduciary and best interest. Fiduciary is legal standard. The SEC and the Committee with Model 275 has created a standard for fiduciary roles but applies it to make sure clients gets their best interests. This allows smaller savers to access these services. It is important to tell the DOL this story.

Consumer representatives also spoke. They feel that there are currently gaps in the framework that result in gaps for retail investors. Investors expect to receive investment advice most optimal for own investments. However, current rules do not ensure that investor's reasonable expectations will be met. So, all of these rules need to be updated. The DOL should apply fiduciary duty to one-time advice and to all products sold in retirement accounts regardless if they are regulated as securities. The goal is to provide high quality advice without a tainted conflict of interest.

<u>Receive an Update from the Annuity Suitability (A) Working Group —Commissioner Doug Ommen (IA)</u>

The working group has not yet met in 2022; however, the group has multiple opportunities for work this year. The charge has not changed: it is to consider how to create uniformity across all jurisdictions. There is more work that needs to be done. Clearly, promoting adoption of 2022 revisions cannot stop at working group so should all be considered by (A) Committee. The SEC Best Interest Rule also requires a very thoughtful review with regard to safe harbor provisions. The group plans to have a meeting in early May to consider comments already received and will also open another 30-day comment period. State regulators need to share what they are doing with one another. Group shares the view that DOL would be wise to re-evaluate cost benefit analysis based on SEC and state changes before adopting a new fiduciary rule.

Consider Adoption of the Life Actuarial (A) Task Force Report —Mike Boerner (TX)

The American Academy of Actuaries explained that it did not have enough resources to maintain ESG in current form and need for replacement was heightened in 2019. Conning was selected as vendor. After the contract was in place, regulators worked with Conning and have had weekly calls to develop recommendations for the field test. One prospect is the development of simplified corporate bond model; this is a lot of work so it will not be ready for June field test. Currently, there are weekly calls related to the ESG field test, which need to be ramped up for June field test. There is an upcoming call on April 14 to discuss comments on exposure for recommended model.

Key next steps include: field test, any refinement of ESG model, field test specifications, necessary scenarios for delivery. The comment period for the exposure of the recommended models ended April 7.

The Task force is focused on aspects related to reserve adequacy; working to ensure that life insurers will be able to pay claims even if assets do not perform as expected. A first draft of actuarial guideline is expected to be adopted in early August so controversial aspects such as application of guardrails will likely be deferred to later discussions. There will be movement over the next few weeks to turn the current draft into a final draft ready for adoption.

In June 2021, the (A) Committee directed LATF to develop a subgroup to study index linked variable annuities. The charge was to provide guidance to nonforfeiture or interim value requirements. Variable products are exempt from non-forfeiture law so the subgroup is addressing this. It is important that if a product is exempt because of its variable nature, then product needs to behave like variable product. The subgroup developed actuarial guideline, exposed it at end of last year, discussed the exposure over the first quarter and incorporated comments into a second draft exposure that was released last week for 30 days. The subgroup is looking forward to comments in early May.

Birnbaum explained that LATF is on its fourth iteration of the work. CEJ has an ongoing request for broader look at illustrations generally whether efforts should focus on short term fixes to AG 49 or address broader problems. CEJ proposes addressing broader problems.

The LATF report was adopted.

Discuss Next Steps for the Life Insurance Online Guide (A) Working Group —Director Judith L. French (OH)

The working group hoped to create an online resource. The working group struggled to create content or to determine how an online guide should be structured. The challenge is that there are a lot of state-specific life insurance details. Plus, consumers usually do not go to NAIC for information. Thus, the current focus revolves around what is on the NAIC website now and how people use the site.

There were only about 30,000 views. Individuals from the age of 35-44 look at the page the most; age 65 and above look at this page the least. This is not a strong source without a push campaign. The website tries to educate about the purpose of each insurance type, guide consumers to know what to ask a licensed agent, remind consumers to check state's DOI website to confirm agent is licensed, and let consumers know their state DOI is here to help with questions. Typically, viewers usually then go to a state website.

There are three buckets of information: (1) information to know before talking to agent, (2) information about keeping policy current, and (3) reminding users that they can get help at DOI.

NAIC has a push campaign and social media. The key section was "Be Prepared Before You Buy." The NAIC looked at other states to see what other states are doing well to incorporate into website. Another potential help would be to include glossary of terms and to provide a translator. This will be scheduled for further discussion down the road.

Receive an Update on the Special (EX) Committee on Race and Insurance Workstream Four—Director Judith L. French (OH)

The workstream is hoping to do information sessions on marketing and distribution in underserved communities and hoping to partner with (A) Committee.

Discuss Any Other Matters Brought Before the Committee —Director Judith L. French (OH)

None.

The full meeting materials can be accessed here.

Health Insurance and Managed Care (B) Committee

The NAIC Health Insurance and Managed Care (B) Committee met on Thursday April 7 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Commissioner Mulready began by mentioning that *PCMA v. Mulready* opinion was released this week, and Oklahoma prevailed on all ERISA challenges and split on Medicare Part D challenges.

Consider Adoption of its 2021 Fall National Meeting Minutes —Commissioner Glen Mulready (OK)

Meeting minutes were adopted.

Consider Adoption of its Subgroup, Working Group, and Task Force Reports —Commissioner Glen Mulready (OK)

The meeting minutes were posted. There was no discussion, and the reports were adopted. The reports can be found here.

A. Consumer Information (B) Subgroup—Mary Kwei (MD)
B. Health Innovations (B) Working Group—Commissioner Andrew R. Stolfi (OR)
C. Health Actuarial (B) Task Force—Commissioner Andrew N. Mais (CT) and Paul Lombardo (CT)
D. Regulatory Framework (B) Task Force—Commissioner Vicki Schmidt (KS)
E. Senior Issues (B) Task Force—Commissioner Marlene Caride (NJ)

Receive an Update on the Special (EX) Committee on Race and Insurance Workstream Five's Work—Commissioner Kathleen A. Birrane (MD) and Commissioner Grace Arnold (MN)

The workstream met in open session to discuss plan for 2022: (1) identify geographic based barriers and mitigating barriers and (2) understand the role health insurance can play in addressing inequities. The first is the foundational work to make sure products are inclusive in design. This focuses on benefit decisions, network decisions, and benefit structures. The next is consumer empowerment and engagement. The workstream will look at successful strategies for enrollment and understanding how to access care through insurance

The workstream discussed what end work product will look like. It will develop guide for regulators that discusses barriers and look to state colleagues to determine tools and strategies to look at the best of what everyone is doing.

It is mapping out a schedule for completing work on topics. It hopes to meet monthly to hear from different groups and then try to have community-based organizations to talk about how to work with racial or underrepresented populations to facilitate understanding of experiences of those groups and then will try to address those concerns.

Hear an Update from the Federal Centers for Medicare & Medicaid Services' (CMS's) Center for Consumer Information and Insurance Oversight (CCIIO) on its Recent Activities and Federal No Surprises Act (NSA) Implementation—Jeff Wu (CCIIO)

The No Surprises Help Desk started on January 1, 2022. This is a broad-based help desk for consumers and providers to ask questions by calling 1-800-985-3059. The help desk has gotten thousands of inquiries, mainly related to basic rights and protections under the Act. The help desk has also received lots of complaints and questions from providers as industry reacts to the rules in place and learns how to implement the requirements. This includes a variety of markets: marketplace, fully insured, self-insured, etc. Over time there has been a shift from trying to understand the new requirements from consumers to more calls from providers. The help desk often follows up on these complaints and inquiries. The topics have also shifted from more questions to complaints. But, complaints are still minority.

Wu also discussed the independent dispute resolution (IDR) process: A court decision has invalidated portions of interim final rule. But, none of the invalidated provisions has effected protections to consumers. Thus, CMS announced that parties will have 15 days from opening of an IDR portal to submit initiations of disputes—different than 4 days. The IDR portal is planned to launch next week. CMS will be posting guidance.

CMS has conducted road shows providing outreach and technical assistance to various provider groups. It has been getting quite a bit of feedback and in particular questions about Good Faith Estimates. It recently posted set of FAQs about Good Faith Estimates on its website and will continue to provide clarification and guidance. This will provide a number of clarifications about certain scenarios. CMS recently posted RERCs (codes) for payers to use to communicate about claims.

CMS is hearing a lot about need for public education. CCIIO agrees with this and has been eager to help by working on materials for different organizations to use or distribute and to provide technical training. For example, it is partnering with CFPB and has released materials about No Surprises Act. It engaged with KFF, which put up knowledge quiz.

Wu also discuss enforcement and interaction with state law: it has been working with many state department staff to understand how the Act will be enforced by state and CMS. Many states have indicated intent to work with legislatures to bring protections into state law or to expand state authority on enforcement. Under the statute, CMS will only enforce a provision with respect to applicable regulated parties if CMS determines that a state is not substantially enforcing that provision. At this point, it would engage in Collaborative Enforcement Agreement. If a state finds a violation but cannot obtain voluntary compliance, then can refer to CMS to take the enforcement action. It is important to get details established on who is enforcing what between states and CMS. CMS is conducting outreach to each state to find out how a state would handle a help desk related to that state.

Mulready asked about Texas case on appeal and timeline—Wu was unsure where this will go and CMS is moving forward with injunction in place.

Discuss Any Other Matters Brought Before the Committee —Commissioner Glen Mulready (OK)

Commissioner would like to see presentations in follow-up meeting related to the ending of public health emergency and end of year subsidies given that this is the perfect storm of individuals coming into marketplace so states' hands will be full. 15 million people are potentially rolling off Medicaid.

Another regulator expressed a concern with Medicare advantage plans given that these plans send out materials that are not consumer friendly. Someone needs to do something. Bonnie Burns supported this. She is very concerned about notices and ability to interpret and suggested creating criteria that CMS might consider to help consumers.

Adjourn into Regulator-to-Regulator Session, Pursuant to Paragraph 3 (Specific Companies, Entities or Individuals) and Paragraph 8 (Consideration of Strategic Planning Issues) of the NAIC Policy Statement on Open Meetings

The full materials can be found here.

Pharmacy Benefit Manager Regulator Issues (B) Subgroup

The NAIC Pharmacy Benefit Manager Regulatory Issues (B) Subgroup met on Monday, April 4, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Hear an Update from Oklahoma on the Implementation of its Pharmacy Benefit Manager (PBM) Law*)—Kelli Price (OK)*

In Oklahoma, the Patient's Right to Pharmacy Choice Act requires the same reimbursement for independent pharmacies as those that are affiliated with a PBM and prohibits a PBM from restricting an individual's choice of provider. In December 2020, *Rutledge v. PCMA* decided whether Arkansas Act 900's requirement to cover reimbursement at cost by updating price schedules was preempted by ERISA. The United States Supreme Court held that Act 900 is cost regulation and is not preempted by ERISA. Thus, cost regulations that do not force a plan to adopt a particular scheme of coverage are not covered by ERISA and cost uniformity was not the object of ERISA preemption.

In Oklahoma, PCMA argued that the Act was preempted by ERISA and sought a preliminary injunction. The district court denied the request for a preliminary injunction, and PCMA filed an interlocutory appeal in the United States Court of Appeals for the Tenth Circuit. The Tenth Circuit declined to issue a preliminary injunction, and the Oklahoma Act took effect without the enjoined provisions of Medicare Part D. In October 2021, arguments on a motion for summary judgment were submitted, and the case is currently still pending.

As to compliance, Oklahoma has had several settlement agreements. There have been over 87,000 alleged violations and almost 33,000 penalties imposed. There are currently 53 licensed PBMs.

One of the main issues moving forward is the differentiation between when a regulation is cost-regulation and when it is central to plan administration. In addition, a lot of PBMs want more insight into the administrative enforcement process. However, typically the insurance department engages in settlement discussions and does not begin a formal administrative enforcement process. The insurance department's first priority is to try to get money back to pharmacies to make them whole.

Hear a Discussion from Oregon on PBM Regulation and Beyond—*Ralph Magrish (Executive Director of Oregon's Prescription Drug Affordability Board) and Numi Griffith (OK)*

Oregon has had three laws passed related to PBMs: a 2013 law that laid the groundwork, a minor expansion in 2017, and the most recent in 2019, which added market conduct restrictions and expanded rule making authority. The laws require PBMs to register and require that a PBM must maintain an appeals process for pharmacies to appeal disputed transactions. PBMs may not require patients to use mail-order pharmacies and may not claw back claims except for in certain circumstances. PBMs pay an annual registration fee. This goes into a general account for the insurance department.

The enforcement process is driven by complaints. The primary driver in this area is complaints from pharmacies. The complaint volume has been very low, and there has been no active enforcement. These regulations do not apply to insurance carriers administering claims directly.

The white paper charge focuses on transparency – the task force was asked to find ways to increase transparency across the pharmaceutical supply chain, and there have been several recommendations focused on PBMs. This includes requiring total rebates and reporting by PBMs and manufacturers. There was a bill that would have implemented these recommendations, but the bill did not pass. Thus, there is no transparency requirement for PBMs specifically.

The Oregon Secretary of State has begun audits on PBMs to look specifically at whether use of PBMs and rebates is leading to a net benefit in terms of administering benefits.

One charge of the board is to conduct affordability reviews to look at: (1) estimated amount of price rebates that manufacturers provide to PBMs and (2) estimated amount provided to insurers. Other states—through drug pricing transparency programs—are collecting information from PBMs themselves. The goal is to get to the net cost by questioning the costs and profit distributions. The goal is to quantify those profits and identify the impact on system and consumers.

<u>Hear a Discussion From a Consumer Perspective on the Subgroup's 2022 Charge to Develop a White Paper Examining PBM Business Practices—*Carl Schmid (HIV + Hepatitis Policy Institute) and Anna Schwamlein Howard (American Cancer Society Cancer Action Network, Inc.—ACS CAN)*</u>

Mr. Schmid stated that PBMs get involved in the level of rebate and have a lot of power. PBMs go to manufacturers and ask for bigger rebates in exchange for including drugs. This is bad for patients if they are doing well on a medication. There are a number of drugs excluded from plans, and this list continues to grow. Some HIV drugs have been excluded. Sometimes PBMs favor higher price HIV drugs and exclude lower price drugs. Therefore, there is likely something going on with net price.

The total out-of-pocket cost is higher for prescriptions than hospital care. Consumers are forced to pay quite a bit of money. Deductibles are high. Most household incomes do not have the money to meet out-of-pocket expenses. Consumers on HIV drugs have to pay these high amounts early in the year. This leads to abandonment. This past year, 55 million prescriptions were abandoned. If the cost was more than $250, there was an over 50% abandonment of medications.

PBMs determine drug tiers. Plans now have higher tiers which means higher prices for consumers. PBMs often use these tiers to get rebates. Now, any drug over a certain price is a specialty drug. This is discriminatory to put every specialty drug in the highest tier. Schmid explained that biggest issue is to answer how big are these rebates? Another issue is co-pay accumulator programs. Thirteen states have banned these types of programs.

PBMs have a major role in pharmacy access. They do a good job delivering medication but not everyone wants to use mail order. HIV patients are often worried about confidentiality.

Ms. Howard explained that they believe the white paper provides good compromise to allow states who want to move forward with regulation to do so and to use section 8 drafting report to go further.

There are some pro-consumer portions of the draft: (1) PBM network adequacy requirements to ensure consumers have convenient access to pharmacies because mail order is not always appropriate (immediate access, confidentiality), and (2) prohibitions on drug pricing

However, there are a few topics that have yet to be included but should be considered: (1) prior authorization requirements (DE limits use of requirements), (2) mid-year formulary changes (when there are changes during the year, this impacts consumers), (3) PBM complaints (potentially consumer complaint process), (4) clearly defining carrier options, (5) laws with respect to rebates, and (6) discussion of the impact of the *Rutledge* decision.

<u>Discuss Any Other Matters Brought Before the Subgroup—*TK Keen (OR)*</u>

There were no additional matters.

Health Innovation (B) Working Group

The NAIC Health Innovations (B) Working Group met on Monday, April 4, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Consider Adoption of its 2021 Fall National Meeting Minutes—Commissioner Andrew Stolfi (OR)

The Working Group adopted the 2021 Fall National Meeting Minutes

Hear Presentations on Coverage Changes Associated with the End of the Covid-19 Public Health Emergency—Commissioner Andrew Stolfi (OR)

The primary topic of this meeting was the upcoming re-determination of eligibility under state Medicaid programs. During the state of emergency due to the COVID-19 pandemic, re-determinations of eligibility by the states have been paused. This pause will end soon (at the expiration of the state of emergency), thus this working group is prioritizing the goal of helping to promote continuous coverage during this period of re-determination.

• **Anne Marie Costello, Center for Medicaid and CHIP Services**

Costello explained that CMS is committed to ensuring that individuals retain coverage after end of public health emergency. Currently, about 86 million people are covered. This is largely attributable to the continuous enrollment requirement, which prevented termination of coverage during the public health emergency. However, this has disrupted state's enrollment options. After a redetermination of renewal has been conducted, states will be able to terminate those who are no longer eligible for coverage. Coverage will be at risk for an estimated 15 million individuals. This is the largest coverage transition since Affordable Care Act. Nearly all states are implementing strategies. Some states have launched outreach campaigns via social media but many are waiting.
CMS has released guidance to help states and lays out expectation for this unwinding period. These tools are on medicaid.gov/unwinding. CMS hopes the guidance addresses critical questions and concerns.

• **Jeff Grant, Center for Consumer Information and Insurance Oversight**

The Center for Consumer Information and Insurance Oversight is working on strategies to allow individuals to smoothly transition from Medicaid to marketplace coverage. It has been looking at any policy or operational guidance to ensure smooth transition. The goal is to make coverage as affordable as possible.

To help keep track of the transition, the Center is also looking at data capabilities and pulling together data to keep track of coverage transition plans. Health plans regulated by NAIC are super critical to this process. The most important plans are those with QHPs in the marketplace. If state law permits, Medicaid MCOs can share information with QHP counterparts about individuals who have lost coverage to help marketing and enrollment. This is a new thought process to communicate across different lines, and there needs to be a full year commitment to the enrollment process. The Center really wants QHP issuers to play a large role in helping individuals get enrolled. One way to do so is to partner with state agencies to have conversations and think about how to coordinate across different markets because there are substantial differences.

The Center is trying to get mailing addresses updated so that it is possible to communicate with those at risk of losing coverage. Individuals and providers should stay on top of guidance being put out by CMS and be aware of the flexibilities being granted and the priorities placed on these issues.

A regulator asked if there is anything else that a state could be doing in addition to communication and outreach to prepare for the upcoming transition. Grant explained that communication is the most public piece but states are also starting to work on system changes, looking at how to make process improvements to streamline eligibility, looking at how to improve renewal and redetermination, training employees due to concerns for staffing issues, etc. CMS has listed some of these actions in its guidance that it has issued.

Another individual asked when the state of emergency is expected to expire. Right now, CMS is not sure but is operating under the assumption that it will end in July, which would mean the first terminations would occur August 1. However, CMS has no insight into exactly when the state of emergency will end.

• Jeremy Vandehey, Oregon Health Authority

In Oregon, about 300,000 individuals have transitioned onto Medicaid during the pandemic (1.1 to 1.4 million). The state estimates that when this ends, there will be about 300,000 that could come off. This estimation is based on a combination of reasons: some individuals will fail to return paperwork and some individuals will have returned to work or will be eligible for the marketplace.
During the pandemic, there has been a reduction in the uninsured population. Group coverage has been ticking down for the past decade and continues to decline. The state conducted a survey and was able to determine why people were uninsured. There was large gain in the insured population in the group on the cusp of Medicaid eligibility. The legislature introduced a bill focused on flexibility and direction on eligibility determination.

Moving forward, Oregon estimates that to review all 1.4 million individuals, it will have to conduct about 200,000 eligibility determinations each month. The goal is to retain as many who are eligible as possible and to develop a program for those on the line of eligibility called a "bridge plan" This will help individuals who bounce between coverage and non-coverage to have more continuous coverage.

A task force will start meeting next month and will have until September to develop an application for the federal government to develop proposal – goal is to have this when doing redeterminations.
This is a great opportunity to bring commercial and Medicaid teams together to create a smoother transition.

The NAIC is looking at Oregon for potential ways to address the issue of bouncing between coverage/noncoverage beyond this redetermination period.

• Marissa Woltmann, Massachusetts Health Connector

Health Connector is the Massachusetts market place. It provides both individual and small group health and dental coverage and offers plans from 9 carriers. It is composed of 82% of all individual market enrollees and serves a variety of incomes. Some individuals pay full price, some receive federal subsidies, and others receive both federal and state subsidies through Connector Care.

Given that this is likely to be a huge coverage event, working with different parties will make it simpler to stay covered. One critical issue will be the expiration of federal subsidy enhancements—the American Rescue Plan increased the reach of tax credits and removal coinciding with coverage will create more issues unless Congress extends subsidy increase.

Health Connector has worked with Mass Health to increase opportunities to verify individual eligibility rather than requests for paper documentation. The ability to automatically open special enrollment period is important because the system knows when someone is losing coverage so they do not have to send in proof of coverage lapse. Health Connector is also looking at ways to support those who need to send in paper documentation.

Further, it is thinking about ways to streamline enrollment, such as the option to authorize automatic enrollment. It is also looking at continuity of care selections. In person support will be critical in helping people transition to individual market coverage. Finally, it is engaging with carriers because they are well-versed on who is following through with renewals.

• Wayne Turner, National Health Law Program
National Health Law Program is a network of legal access with its focus on Medicaid. The group has been meeting over the past couple of months to discuss public health unwinding issues given that the nation is looking at massive coverage losses. This is not just a Medicaid program—it is also an insurance department problem. Thus, insurance departments need to step up. There will be a group of people unlawfully terminated. Reminding states to conduct individualized eligibility determinations.

When people lose coverage, they do not know until they attempt to go get a service (ex. make appointment). They will likely turn to insurance departments. So it is important for insurance departments to help to prevent losses and provide resources to those who will fall through the cracks.

• Karen Siegel, Health Equity Solutions

Siegel explained that those with disabilities may have issues accessing relevant information delivered in a way that they can understand. Thus, it is especially important to address complexities of situation to help enroll in plans and use those plans. Further, it is important to keep in mind that even where there is a smooth transition of market coverage, there are disruptions to care.

It is time for insurance departments to start preparing. For example, Oklahoma has a warning for severe weather, and we need to use similar ideas to prepare for this upcoming storm by providing consumer information and updating websites.

Dialysis Patient Citizens spoke and expressed a concern for continuity of coverage for those with chronic diseases. We do not want to see interruptions which lead to health issues.

<u>Receive an Update on Research into Health Disparities—Commissioner Andrew Stolfi (OR)</u>

• Kelly Edmiston, Center for Insurance Policy Research

Mr. Emiston provided an update on research since the San Diego meeting. At the last meeting, the research focused largely on telehealth. Today, Mr. Edmiston focused on alterative payment models. However, as to telehealth, he explained that telehealth provides significant opportunity to provide access to care. But, there is a possibility for new disparity because people who are least likely to access telehealth, are those that might benefit the most from access to telehealth. There are more people that are far away from providers than expected.

He also explained that payment systems need to account for the reality that not everyone is looking out for best interests of all. Practitioners should be rewarded for things they can control but should not be penalized for things they cannot control. No matter the model, there appears to be an incentive to not treat vulnerable populations. Value is defined as outcome or quality and cost of care. In terms of health disparities, there are pros to models. The highest cost beneficiary presents the biggest opportunities for incentives. But there are harmful effects. Risk adjusted outcomes do not level the playing field for those treating disadvantaged patients. There is a powerful incentive to avoid high risk patients. Providers who give care to vulnerable populations are more heavily penalized.

The full report on Trends in Telehealth is attached here.

The Group stated it is important to get a message around to members and interested parties to solicit suggestions based on research and suggestions about drafting a charge.

Discuss Any Other Matters Brought Before the Working Group—Commissioner Andrew Stolfi (OR)

No other business. Adjourn.

Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group

The NAIC Mental Health Parity and Addiction Equity Act (MHPAEA) (B) Working Group met on Tuesday, April 5, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Presentation on the Development of a Certification in Mental Health Parity by the Insurance Regulatory Examiners Society (IRES)—Erica Weyhenmeyer (IL)

Presenters: LeAnn Crow, Kansas; John Haworth, Washington; Erica Weyhenmeyer, Illinois

IRES is an association of professional insurance regulators dedicated to consumer protection. IRES helps to promote fair, cost-effective, and efficient insurance regulation by ensuring professionalism and integrity among individuals who serve state and federal insurance regulatory bodies. There are four cores:

1. Core 1 – Look into MHPAEA history and law
2. Core 2 – QTL (Quantitative Treatment Limitations) and NQTL (Non-Quantitative) Identification and Classification
3. Core 3 – Look at medical necessity, pharmacy benefit considerations (example: do you have to try several drugs before you get what you need)
4. Core 4 – Claims Coding, Network Adequacy, Provider Reimbursement, and Vendor Oversight

The group is also looking at some supplemental courses, such as AHIP courses, ASAM criteria, medical necessity criteria, and quality assessment. Some states are also adding their own laws in addition to federal law. Currently, the focus is on the four cores. The intent is to have a first showing of the four cores. From that point, Core 1 will be modified to be a more accessible program for more access. Core 2 is anticipated in late 2022 or early 2023. The Group is seeking assistance from experts in mental health parity to assist with training development.

The PowerPoint can be found here.

Presentation on Mental Health Parity Enforcement by the Department of Labor— Erica Weyhenmeyer (IL)

- **Amber Rivers, Employee Benefits Security Administration**

Rivers works with the Department of Labor (DOL). The DOL works closely with the Department of Human Services. The DOL regulates about 2 million plans related to employer-sponsored plans. The Secretary cares very deeply about these issues. The DOL issued a set of FAQs to communicate expectations before enforcing the requirements of the amendments to MHPAEA by the Consolidated Appropriations Act. The DOL was under statutory obligation to report findings and the deadline to provide and document analysis was very early. Plans and issuers should have already been undertaking analysis. The new portion is the requirement to document these findings.

In January, the DOL issued its 2022 Report to Congress on its findings under the new requirements. This report is published every 2 years. The report provides detailed explanations of what steps the DOL took to enforce requirements under MHPAEA and its observations of enforcement activity. There is a designated Mental Health Parity Task Force. The team works closely with mental health parity experts. The Report highlights prior authorization and network rates. The Report found that many health plans are unprepared and were missing key information required by the statute. The DOL issued 80 letters noting deficiencies and 30 letters that cited violations of MHPAEA. The Report provides detail about what health plans should be mindful of moving forward. The analysis should not only provide an answer but also an explanation as to how the plan got to that conclusion.

<u>Presentation on Documenting Compliance in Non-Quantitative Treatment Limits— Erica Weyhenmeyer (IL)</u>

• Tim Clement, American Psychiatric Association

Clement focused on what a good analysis constitutes in concurrent review. A comparative analysis does not need to be 100 pages long. Instead, what a regulator should do after reading a comparative analysis is be able to come to the conclusion that the plan is complying with the law.

Step 1: Specify the specific plan or coverage terms or other relevant terms regarding the NQTL, that apply to such plan or coverage, and provide a description of all mental health or substance use disorder and medical or surgical benefits to which NQTL applies.

Step 2: Identify factors for when concurrent review will occur, including factors such as average length of stay

Step 3: Explain how the facts in Step 2 are defined. Example: How did you determine average length of stay?

Step 4: Provide comparative analyses demonstrating that the processes, strategies, evidentiary standards, and other factors used to apply the NQTL to mental health or substance use disorder benefits, as written in the operation, are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, and other factors used to apply the NQTLs to medical or surgical benefits.

Step 5: The specific findings and conclusions reached by the plan or issuer with respect to the health insurance coverage, including any results of the analyses described in the previous steps that indicate that the plan or issuer is or is not in compliance with the MHPAEA NQTL requirements.

See example here.

Discuss Any Other Matters Brought Before the Working Group—Erica Weyhenmeyer (IL)

No additional matters. The full meeting materials can be found here.

Property and Casualty Insurance (C) Committee

The Property and Casualty Insurance (C) Committee met on Thursday, April 7, 2022 at the NAIC Spring National Meeting. Below is a summary of the meeting:

The Committee previously met on December 15, 2021 at the NAIC Fall National Meeting, and the minutes from that meeting were adopted without objection.

Consider Adoption of its Task Force and Working Group Reports

Eric Slavich (WA), Director Eric Dunning (NE), Commissioner Alan McClain (AR), Commissioner Ricardo Lara (CA), and Commissioner David Altmaier (FL), respectively, provided the Reports on behalf of the Casualty Actuarial and Statistical (C) Task Force, Title Insurance (C) Task Force, Workers' Compensation (C) Task Force, Cannabis Insurance (C) Working Group, and Catastrophe Insurance (C) Working Group. These Reports can be found in the meeting materials.

Reports from the Surplus Lines (C) Task Force, Pet Insurance (C) Working Group, Terrorism Insurance Implementation (C) Working Group, and Transparency and Readability of Consumer Information (C) Working Group were also provided, but there are no available written reports for these groups.

Commissioner James Donelon (LA) shared that the Surplus Lines (C) Task Force plans to meet in the coming weeks. During the upcoming meeting, the Task Force plans to hear from the Model Nonadmitted Insurance Act (#870) drafting group to hear about how the Model has been modernized.

On behalf of the Pet Insurance (C) Working Group, Commissioner Mike Chaney (MS) reported that the Pet Insurance Model Law was removed from the agenda for the 2022 National Meeting, and that minor revisions are currently being made to the Model. There was a motion to reappoint the Working group to complete its charge to develop a model law, as well as a motion to keep the Model open until the Summer National Meeting. Both motions passed without objection.

Martha Lees (NY) provided a report on behalf of the Terrorism Insurance Implementation (C) Working Group. Ms. Lees shared that the Working Group has not met this year, but it plans to announce a conference call in late April or early May. During this call, the Working Group will receive an analysis of the workers' compensation data, as well as non-workers' compensation data, recently received in response to the state regulator data call. The Federal Insurance Office ("FIO") and the NAIC have notified insurers of this year's data call by providing instructions to insurers regarding submission to FIO and the NAIC by May 16, 2022.

George Bradner (CT) provided a report on behalf of the Transparency and Readability of Consumer Information (C) Working Group. Mr. Bradner explained that the Working Group has been working on a project for the last year to draft regulatory best practices that serve to inform consumers of reasons for significant premium increases related to property and casualty insurance products. The Working Group formed three drafting groups: disclosure language, rate filing checklists, and consumer education. The first two groups have completed their work, and the last group sent its final document in for review. The documents from each group will then be combined into a single best practices document to be exposed for comment. The Working Group anticipates that the final document will be sent to the (C) Committee for adoption during the Summer National Meeting.

All of the Task Force and Working Group Reports were adopted without objection.

Hear a Presentation Related to Private Passenger Auto (PPA) Insurance Results

To follow up the discussions that the Committee had during the Fall National Meeting, Aaron Brandenburg (NAIC) provided an update on private passenger automobile results through 2021, focusing on ten-year trends. The presentation can be found in the [meeting materials].

Mr. Brandenburg explained that private passenger auto liability premiums written decreased in 2020 by 2%, while they rebounded with a 6% increase in 2021. The ten-year average loss ratios for private passenger auto liability is approximately 65.5%, and the nine-year average combined ratio is approximately 103.4%. The loss ratio for private passenger auto liability was 56.4% in 2020, and rose to 65.5% in 2021. The combined ratio for private passenger auto liability was 94.8%, and although the 2021 data is not yet available, Mr. Brandenburg stated that it would likely be near the average.

Looking at private passenger auto physical damage, premiums written also decreased in 2020 by -1%. In normal years, physical damage is usually between 2-9%, and 2020 was the only decrease in the ten-year data. In 2021, there was an increase of approximately 9%, which is similar to what was seen in 2018. The ten-year average loss ratio for private passenger auto physical damage is 64.4%, and the nine-year average combined ratio is 97.3%. The loss ratio was 55% for 2020, and 71.5% for 2021. The combined ratio for 2020 was 89.20%.

The total private passenger auto figures were then combined to illustrate the full picture. Mr. Brandenburg explained that, when looking at the ten years of data available in the presentation, total private passenger auto premium written increased every year except 2020. The total private passenger auto premium usually experiences changes between 3-8%, yet in 2020, premium fell nearly 2%. The ten-year average loss ratio for total private passenger auto is 65%, and the nine-year average combined ratio is 100.98%. The loss ratio was 55.9% for 2020, and 68% for 2021. The combined ratio for 2020 was 92.5%.

As it relates to profitability, Mr. Brandenburg explained that the total private passenger auto nine-year average return on net worth is 4.86%. While the figures from 2018, 2019 and 2020 are all above average, the return on net worth was its highest in 2020 at 10.2%. Mr. Brandenburg stated that he expected this figure to fall dramatically based on the 2021 numbers.

Last, Mr. Brandenburg asked the Committee to let him know if any members would like to receive additional data related to the frequency and severity of accidents, quarterly trends, etc.

Hear a Presentation Related to the Effects of Inflation on Auto and Homeowners Lines

Susanna Gotsch, Senior Director and Industry Analyst at CCC Intelligent Solutions, Inc. ("CCC"), began the presentation by explaining that CCC is a software as a service ("SaaS") provider that works with property and casualty companies in the U.S., specifically handling automotive physical damage claims.

The COVID-19 pandemic caused a significant decline in driving. Specifically, the U.S. Department of Transportation indicated that there was over a 13% decline for the full year of 2020. As the data from 2021 has been released, Ms. Gotsch explained that the driving numbers are now exceeding pre-pandemic levels. She stated that CCC processed over 12 million claims on behalf of its customers last year, and a normal pre-pandemic level would be closer to 16 million claims. While the number of claims is still slightly below where they were, they are beginning to show steady growth.

During the pandemic, CCC started to see an uptick in claims involving vehicles that were "non-drivable", meaning more severely damaged. The auto casualty data also suggested that the number of medical procedures on a typical automotive claim began to involve more specialized, expensive treatment plans. Ms. Gotsch pointed to these figures in support of the claim that the frequency and severity of auto accidents has been increasing.

Ms. Gotsch explained that vehicle repair costs have climbed sharply in the last several years, with the costs increasing by over 9% in 2021. This increase is, in part, related to the change of driving patterns as a result of the pandemic. However, a large part is related to the changing vehicle fleet and content of the vehicles overall. For example, newer vehicles are equipped with more parts and more complex technology, making them more expensive and challenging to repair. As a result, parts are more expensive and more specialized skill sets are required to repair these vehicles. Additionally, there has been a disruption in the supply chain given global events, and this has led to delays in production and shipping, backlogs at the ports, understaffing, etc. All of these variables have led to the increased cost of vehicle parts, and therefore, the increased cost of vehicle repair.

Dr. Robert Hartwig, Clinical Associate Professor of Finance, Risk Management, and Insurance at the University of South Carolina, then explained that inflation has accelerated rapidly since early 2021. As of February, the year-over-year inflation rate was 7.9%. Dr. Hartwig stated that inflation has had a dramatic impact on the cost of auto insurance, as shown in his presentation. He explained that there has been an explosion of poor driving behaviors that has resulted in a significant increase in auto accidents, perhaps even making up the difference for the decreases experienced due to the pandemic. These behaviors, substance abuse, excess speed, etc., have become more prominent during the pandemic, and this has led to an increase in both frequency and severity of accidents.

Dr. Hartwig provided additional data related to personal auto loss ratios, but as opposed to the NAIC data, it is broken up quarterly to show the how quickly the numbers increased. For example, the personal auto loss ratio increased from 66% to 72.1% from 2021 Q1 to 2021 Q2, which is much higher than the five-year average. The personal auto loss ratio increased by 14.5 points in 2021, and Dr. Hartwig stated that this upward trend has the potential to influence future rates. Additionally, the graphs in Dr. Hartwig's presentation illustrate the large increase in direct incurred losses from 2020 to 2021, and he explained that the magnitude of this increase dwarfs any change in premiums. Dr. Hartwig explained that, while incurred loss and loss ratios are up, premiums have not been able to keep up with the pace.

Additional to auto loss ratios, the impacts of inflation have also resulted in an increased loss ratio for 2020 and 2021 associated with homeowners policies, as well as all property and casualty lines. In addition to inflation, variables such as record catastrophic losses, demand surges, and labor shortages have contributed to these increases. As an example, the price of lumber and wood products more than doubled from pre-pandemic through mid-2021.

On the investment side, Dr. Hartwig explained that the yield on invested assets for the property and casualty insurance industry fell to about 2.6% through the first three quarters of last year, which is the lowest number that has been seen since 1961. Over the past several years, the net invested income of insurers has decreased by nearly 12%. Dr. Hartwig also shared that the ratio of premiums to policyholder surplus is growing in lockstep with premiums being written, and the ratio has remained fairly stable over time.

In response to certain questions and comments from regulators, Dr. Hartwig added that many of the variables affecting the auto market are behavioral, so regulators could partner with law enforcement agencies and raise awareness to try and combat issues such as lack of seatbelts, excessive speeding etc. Additionally, he emphasize that regulators should also understand that, while additional technology is expensive to repair in vehicles, the nation will be better off with it. With respect to inflation in the auto market, Dr. Hartwig explained that, rather than returning to normal prices, prices will likely normalize at a higher level.

Discuss its Charge Related to Parametric Insurance Products

Commissioner Chaney explained that the Committee has a charge this year to provide a forum for discussing issues related to parametric insurance and consider the development of a white paper or regulatory guidance. The Committee's goal is to hear from additional parametric providers in the near future, and work on an outline of a white paper that will be drafted by the end of the year.

Hear a Federal Update

Brooke Stringer (NAIC) stated that, although there is no solid timeline, the NAIC will be monitoring the release of FIO's auto insurance report on availability and affordability. Next, in February, Congressman French Hill (AR) held a virtual round table with stakeholders related to Business Interruption (BI) insurance issues. The NAIC submitted a statement for the record, and is generally supportive of a federal BI mechanism. Additionally, the NAIC staff has had conversations with Chairwoman Maxine Waters regarding her insurer data collection efforts related to diversity, equity, and inclusion. Further, the NAIC has heard from the Senate Banking Committee that it is looking at introducing a bill to expand the Liability Risk Retention Act to allow Risk Retention Groups to sell property coverage. The NAIC is opposed to this legislation. Last, the House passed the Safe Banking Act for the 6th time. This would create a federal safe harbor for violations of federal law for those engaged in the business of insurance participating in cannabis industry activity.

Any Other Matters

As a late agenda item, Peter Kochenburger, Deputy Director of the Insurance Law Center at the University of Connecticut School of Law, provided a brief report related to an ordinance in San Jose, California that requires liability insurance for gun owners.

Mr. Kochenburger explained that, as of January 2022, residents of San Jose who own a firearm are required to obtain liability insurance that covers accidental gun deaths. Additionally, the ordinance imposes an annual $25 fee and requires residents to keep an attestation form similar to an auto proof of insurance. Mr. Kochenburger characterized this ordinance as a situation where a city is seeking to use insurance to solve a problem that insurance did not create. He stated that 95% of gun deaths are attributed to suicides and homicides, where accidental deaths account for approximately 1.2% of gun accidents. Mr. Kochenburger also pointed out that many homeowners policies already cover, or do not exclude, gun-related accidents. This ordinance has been controversial, as it is being challenged both on Second Amendment grounds and by the California Taxpayers Association. Mr. Kochenburger's presentation can be found in the meeting materials.

Market Regulation and Consumer Affairs (D) Committee

The Market Regulation and Consumer Affairs (D) Committee met on Thursday, April 7, 2022 at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

The Committee previously met on December 15, 2021 at the NAIC Fall National Meeting, and the minutes from that meeting were adopted without objection.

Consider Adoption of its 2022 Revised Charges

Commissioner Jon Pike (UT) explained that, although the 2022 Charges were adopted at the Fall National Meeting, there have been a few revisions since then. First, it is now reflected in the 2022 Charges that the Privacy Protections (D) Working Group will be moving to the Innovation, Cybersecurity, and Technology (H) Committee. Similarly, the 2022 Charges now show that the Speed to Market (H) Working Group will be moving to the (D) Committee. These changes were made in recognition of the fact that their charges are more aligned with the new Committees. Additionally, the 2022 Charges reflect the decision to disband the Antifraud Education Enhancement (D) Working Group, and move its charge back under the Antifraud (D) Task Force.

A motion was made to remove the words "Examination Oversight" from the name of the Advisory Organization Examination Oversight (D) Working Group to avoid confusion with the Advisory Organization Examinations Oversight Working Group ("AOEOWG"). The motion passed without objection. Additionally, the Committee's 2022 Revised Charges were adopted without objection.

Consider Adoption of its Task Force and Working Group Reports

Superintendent Russell Toal (NM), Commissioner Trinidad Navarro (DE), Commissioner Michael Conway (CO), John Haworth (WA), Erica Weyhenmeyer (IL), Damion Hughes (CO), Commissioner Doug Ommen (IA), and Katie Johnson (VA), respectively, provided Reports on behalf of the Market Regulation Certification (D) Working Group, Antifraud (D) Task Force, Market Information Systems (D) Task Force, Market Analysis Procedures (D) Working Group, Market Conduct Annual Statement Blanks (D) Working Group, Market Conduct Examination Guidelines (D) Working Group, Advisory Organization Examination Oversight (D) Working Group, and Privacy Protections (D) Working Group. These Reports can be found in the meeting materials.

Reports from the Producer Licensing (D) Task Force and the Speed to Market (D) Working Group were also provided, but there are no available written reports for these groups.

On behalf of the Producer Licensing (D) Task Force, Director Larry D. Deiter (SD) stated that the Task Force has not met since the Fall National Meeting, but progress has been made on several important initiatives. The Task Force plans to meet in late April or early May. The Task Force has continued its development of a uniform process for considering the updates to the NAIC Uniform Producer Licensing Application and has produced a new draft. There have also been additional discussions regarding how states review 1033 waiver requests. Concerning the Working Groups, there have been delays in appointing Chairs for these groups. Last, the Task Force is considering the appointment of a new Working Group focused on adjuster licensing.

On behalf of the Speed to Market (D) Working Group, Rebecca Nichols (VA) shared that an open Working Group call is scheduled for April 20, 2022, to discuss the 2022 goals. During this call, the Working Group plans to hear updates regarding the SERFF Modernization Project and the Product Filing Review Handbook, and to discuss the annual review of the Product Coding Matrix and Uniform Transmittal Document suggestions.

All of the Task Force and Working Group Reports were adopted without objection.

Financial Condition (E) Committee

The NAIC Financial Condition (E) Committee met on Tuesday, April 5, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Consider Adoption of its Jan. 12, 2022, and 2021 Fall National Meeting Minutes—Commissioner Scott A. White (VA)

Meeting minutes were adopted.

Consider Adoption of its Task Force and Working Group Reports —Commissioner Scott A. White (VA)

A. Accounting Practices and Procedures (E) Task Force
B. Capital Adequacy (E) Task Force
C. Financial Stability (E) Task Force
D. Reinsurance (E) Task Force
E. Valuation of Securities (E) Task Force
F. Group Capital Calculation (E) Working Group
G. Restructuring Mechanisms (E) Working Group
H. National Treatment and Coordination (E) Working Group

All group reports were considered for adoption in a single motion and vote. Commissioner asked if there were any such items adopted that should be discussed before adoption and asked if there were other issues that required further discussion. None were raised. The task force group reports were adopted.

Consider Adoption of a Model Law Extension from the Mortgage Guaranty Insurance (E) Working Group—Jackie Obusek (NC)

Ms. Obusek had nothing additional to add to the written request. The Motion to Adopt the Model Law Extension was approved.

The written request stated as follows:

The Mortgage Guaranty Insurance (E) Working Group is in the process of fulfilling its charge to update the Mortgage Guaranty Insurance Model Act (Model #630). The Working Group anticipated completion of its Charge by the 2022 Spring National Meeting. As Chair, I would like to update that request to the Financial Condition (E) Committee in accordance with NAIC procedures.

As background, the NAIC engaged Milliman to assist the Working Group in developing a Mortgage Guaranty Insurance Capital Model that will become part of the new capital standard for mortgage insurers. Subsequent to discussion at the 2019 Fall National Meeting, the Working Group exposed the Draft Mortgage Guaranty Insurance Capital Model, Mortgage Guaranty Insurance Model Act (#630), Mortgage Guaranty Insurance Standards Manual, and a proposed Mortgage Guaranty Insurance Exhibit. In 2021, the Working Group finalized the Mortgage Guaranty Insurance Exhibit that was integrated into the 2021 financial statement. The data for year-end 2021 will be provided by April 1, 2022 and will require a thorough analysis. After the data is analyzed, I anticipate reconvening the Working Group to continue our work Model #630.

At this time, we believe we can complete this work by the 2023 Spring National Meeting. The request for additional time is to allow the necessary time to address comments regarding the above referenced documents and ensure that a comprehensive regulatory framework is in place to effectively regulate these complex insurance entities. We are aware that we have been unable to complete our work within the oneyear time period expected under the NAIC model law process and request an extension until the 2023 Spring National Meeting in order to finalize a product that can be adopted by the domestic states of the mortgage insurers, as well as any other state also wishing to adopt the same.

<u>Receive an Update on Committee Supported Initiatives—Commissioner Scott A. White (VA)</u>

Commissioner White explained that lower interest rates have created riskier trends in investment, increased complexity, and heightened scrutiny by this Committee. Thus, the Committee received an update on committee-supported initiatives related to low interest rates and asset risk.

A. Clarification of Investments Permitted to Be Reported as Long-Term Bonds—Dale Bruggeman (OH)

Mr. Bruggeman explained that the opportunity exists to report any item as a bond by acquiring it through a debt instrument regardless of whether it was a different economic position or not. As to actions taken, the group came up with principles in a flowchart of when an investment can be reported as a bond—a framework to work for the asset-backed bond market following the goal of substance over form. The staff did a great job drafting issue papers, which includes a detailed discussion of where principled definition as at this point.

Staff received comments and update regarding reporting options to revise Schedule B1. The working group directed staff to create a more robust illustration of reporting proposals selected.

B. Reduction of Reliance on Rating Agencies—Carrie Mears (IA)

There is a proposal from SVO staff to add market data analytical fields—market yield, written premium indications, etc. This would be first step. It will send proposals to different task forces and will continue to coordinate with Statutory Accounting Principles Working Group.

It has established an Ad Hoc Discussion Group, which is talking through the reliance of agency ratings and inconsistencies across rating organization in the memorandum of November last year. Objectives include making framework of qualitative and quantitative data for providers; defining repeatable quantitative process to define performance for rating agencies; and looking at market data to identify misalignments.

The group also has proposed changes to the definition of principle protected securities and seeks to update the definition of securities with nonpayment risks. The SVO had reported an additional need for technology resources.

Finally, Ms. Mears explained that they are looking at the possibility of modeling additional asset classes and will work in collaboration with Investment RBC Group to look at appropriate capital charges of securities.

C. Consideration of Certain “High-Yielding” Assets Within the Annual Asset Adequacy Analysis Testing—Fred Andersen (MN)

The Life Actuarial Task Force has focused on aspects of reserve adequacy, such as helping to ensure that life insurers involved with complex assets paying claims even if assets do not perform as expected. The task force met to review a first draft on an actuarial guideline to provide documentation and sensitivity requirements to life insurers with such high risk activities. The guideline will hopefully be adopted this summer. Because of this upcoming deadline, some of the more controversial aspects of the first draft (investment yield assumption guardrail) will likely be deferred to later discussions that will not be a part of the 2022 Guidelines. Currently, the guidelines include requirements for documentation and sensitivity tests reviewing companies reserve adequacy memorandums. This includes, analysis of risk of complex assets, details of assets how will perform, expectations on sophistication of company models, identification of practices for determining fair values, and information on privately originated assets and fees and how net cast flow is projected.

Yesterday, the task force exposed second draft for public comments. Mr. Anderson recommended that if anyone is interested to follow topics of the task force.

D. A Modified Economic Scenario Generator (ESG) That Captures More Low Interest Rates—Mike Boerner (TX)

The task force is set to assess macro prudential risk. It began to work to develop an ESG in July 2019 and requested NAIC staff to consider issuing request for proposal for vendor to build new ESG.

NAIC issued an RFP for a new ESG in March 2020. Six proposals were reviewed and Conning was approved. It then began process and sought industry feedback. There were weekly calls to focus more attention on June field test. It is now weekly planning calls of field test group to work to June field test.

Examples of great collaboration include: (1) treasury (2) equity (3) corporate bond. Subject matter experts will exemplify a corporate bond model after field test begins because it did not have time to get into June field tests. The use in field test is very relevant. The Conning model has proprietary information.

Key next steps include: refining of recommended ESG model for field testing, building out field testing specifications, determining final set of participants, necessary scenario tests, and analyzing test results.

E. A More Risk-Sensitive Life Risk-Based Capital (RBC) Charge for Structured Securities—Philip Barlow (DC)

The working group held a call on March 22 to discuss the four comment letters it received to discuss the (E) Committee exposure. The working group approved first working agenda and addressed charges. Among the conclusions were that the working group will plan to address charges to begin after national meetings. There was discussion about setting up smaller group to develop a plan, but all wanted to be involved in developing plan. The group also plans to address access sequentially starting with those with the biggest impact. The goal is to address priority items identified by (E) Committee first. There is good representation from other task forces and working groups in the group, including chairs of RBC working groups.

It is apparent that the group has developed a robust agenda and it is critical to involve chairs and other members of working groups.

<u>Update from the Federal Reserve on their supervisory framework —Thomas Sullivan (Federal Reserve)</u>

The Committee expected to receive update on supervisory framework; however, there was a scheduling conflict so this will be moved to another time.

<u>Discuss Any Other Matters Brought Before the Committee —Commissioner Scott A. White (VA)</u>

No additional matters.

The full meeting materials can be found here.

Joint Meeting of the Financial Stability (E) Task Force and the Macroprudential (E) Working Group

The Financial Stability (E) Task Force (the "Task Force") and the Macroprudential (E) Working Group (the "Working Group") met on Tuesday, April 5, 2022 at the NAIC Spring National Meeting. Below is a summary of the meeting:

The Task Force previously met on February 22, 2022, and the Working Group previously met on March 2, 2022. The minutes from those meetings were adopted without objection.

Receive a Working Group Update

A. Private Equity

Justin Schrader (NE), Chair of the Working Group, began by giving an update related to private equity concerns. The Working Group's initial charge to play a coordinating role with regard to private equity matters has broadened to focus on activities that may exist for other types of owners and standalone insurers. Mr. Schrader explained that Working Group members have inventoried the list of regulatory considerations and identified existing work that other NAIC groups have conducted related to these issues. The "Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers", included in the meeting materials as Attachment B, was amended to include an introductory paragraph in order to provide foundational understanding for those that are unfamiliar with the state insurance regulatory system. Additionally, the list of considerations contains a summary of the work that has occurred since the Task Force initially adopted the list. Mr. Schrader explained that he and Carrie Mears (IA), Vice Chair of the Working Group, met with Chairs, Vice Chairs, and NAIC staff support from the Statutory Accounting Principles (E) Working Group, the Valuation of Securities (E) Task Force, several RBC groups, and the Life Actuarial (A) Task Force in order to establish a baseline of their activities that relate to the considerations included in the list. The Working Group incorporated these activities into the list of regulatory considerations, as well as some initial conclusions reached during a regulator-only discussion, held on March 25, 2022, where regulators were able to address the first six considerations on the list. A summary of the discussion regarding the first six considerations can be found in Attachment B.

Mr. Schrader said that there will be another regulator-only session where the remaining considerations will be addressed, and this meeting will occur after the National Meeting. The complete document will then be released for a brief comment period, and will subsequently be finalized for consideration by the Task Force.

B. Liquidity Stress Test

Transitioning from the topic of private equity, Mr. Schrader stated that, working closely with both the lead state regulators and insurance companies that are subject to the liquidity stress test ("LST") reporting requirements, the 2021 LST Framework document that provides the outstanding economic variables for the adverse LST and the templates to use for the 2021 LST have been updated. These documents can be found here.

The Lead State Guidance version of the LST Framework and the updated templates are to be used by insurers submitting LST filings with a due date of June 30, 2022.

Consider Adoption of Macroprudential Risk Assessment Process

Mr. Schrader explained that Attachment C in the meeting materials is the amended Macroprudential Risk Assessment Process document (the "Process Document") that was revised to clarify certain points and to conform to industry feedback. Additionally, Attachment D is a summary of industry input that was received in response to the NAIC's macroprudential risk assessment efforts. Last, Attachment E is the illustrative version of the Process Document that shows what the final document could look like. The focus of Mr. Schrader's presentation was on Attachments C and D.

Before further discussion of the amendments, Mr. Schrader clarified that the industry letters received had a common theme – there was a strong push for more detail in the Working Group's work. Therefore, rather than spending time making many substantive changes to the Process Document itself, Mr. Schrader said the Working Group felt that time would be better spent discussing industry concerns so that regulators could modify this process without needing to update the Process Document to account for every new metric, risk, or consideration.

Miguel Romero (NAIC) went on to explain the changes made to Attachment C. First, the document was revised to correct various minor grammatical missteps. Then, based on industry feedback, the Quantitative Review section was revised to reflect that the Working Group will make sure that it provides metrics to regulators in a way that emphasizes the current performance compared to some historical benchmark to increase understanding. Lastly, and also based on industry feedback, the Overall Conclusions and Presentation of Results section now contains a statement that the assessment considers how each risk aligns with the three transmission channels, identified by FSOC as most likely to facilitate the transmission of risk across firms or markets.

Mr. Romero concluded by explaining that Attachment D reflects the common themes found in the industry input, but clarified that the commentary adequately reflected the intent of the Working Group and did not warrant additional changes to the process document. Attachment C, the NAIC Macroprudential Risk Assessment Process Document, was adopted by the Working Group and the Task Force without discussion or objection.

The meeting materials can be found here.

Hear an International Update

Tim Nauheimer (NAIC) gave a brief overview of relevant international activities. He first explained that the International Association of Insurance Supervisors (IAIS) launched a Global Monitoring Exercise ("GME") on March 10, 2022. This GME includes individual insurer and sector-wide monitoring. The deadline for insurers to submit the individual insurer monitoring data is May 10, 2022, and the deadline to submit the sector-wide monitoring data is June 20, 2022.

This year, there is a request for the individual insurer monitoring data to include data on cyber risk, and for the sector-wide monitoring, there is an additional request for data on climate risk. The IAIS will use the additional cyber data in preparing this year's special topic Global Insurance Market Report (GIMAR) which will focus on cyber risk. The NAIC continues to emphasize to the IAIS the need to strike a balance with respect to the burden for insurers and supervisors by limiting the data requested and ensuring that the objectives for collecting such data is clear.

Regarding liquidity, Mr. Nauheimer stated that the IAIS is reviewing comments received on the second public consultation document on the development of liquidity metrics. Following the analysis of the data received, the IAIS intends to issue another publication entitled, "Liquidity Metrics as an Ancillary Indicator" that will be out later this year.

With respect to climate initiatives, Mr. Nauheimer explained that the IAIS has formed the Climate Risk Steering Group ("CRSG") that is comprised of three workstreams: the GAAP Analysis Workstream, the Climate Data Workstream, and the Scenario Analysis Workstream.

Valuation of Securities (E) Task Force

The NAIC Valuation of Securities (E) Task Force met on Tuesday, April 5, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Consider Adoption of the meeting minutes for the Fall National meeting (Doc. ID: 2021-046.01) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)

Meeting minutes were adopted.

Receive and Discuss Comments on a Proposed Amendment to the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) to Update the Definition of Principal Protected Securities (PPS) (Doc. ID: 2021-048.01, 2021-048.02) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)

The task force received comments that interested parties generally agree with the substance of the Proposed Amendment but there were requests that the Amendment be thoroughly discussed to ensure the Amendment does what it is intended to do. The task force requested to continue work with industry and then to expose the Amendment for adoption.

A representative of Northwestern Mutual expressed that it supports helping address concern to ensure that there are no unintended consequences.

The task force directed staff to work with the industry and then expose the Amendment for a 30-day comment period.

Receive and Discuss Comments on a Proposed Amendment to the P&P Manual to update the definition of Other Non-Payment Risk assigned a Subscript "S" (Doc. ID: 2021-047.01, 2021-047.02) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)

Staff explained that securities that possess "Other Non-Payment Risks" are intended to be reviewed by the SVO but these investments have not been explicitly included on the list of Specific Populations of Securities Not Eligible For Filing Exemption in Part Three of the Purposes Procedures Manual of the NAIC Investment Analysis Office (P&P Manual). Securities with other non-payment risks are identified through assignment of the Administrative Symbol "S" as a subscript to the NAIC Designation. This amendment adds "Securities with Other Non-Payment Risks" to the list of securities that are ineligible for filing exemption.

As noted in Part One, paragraph 90, of the P&P Manual, "An objective of the VOS/TF is to assess the financial ability of an insurer to pay claims. For example, the regulatory assumption is that a fixed income instrument called debt by its originator or issuer requires that the issuer make scheduled payments of interest and fully repay the principal amount to the insurer on a date certain. A contractual modification that is inconsistent with this assumption creates a rebuttable inference that the security or instrument contains an additional or other non-payment risk created by the contract that may result in the insurer not being paid in accordance with the underlying regulatory assumption. The SVO is required to identify securities that contain such contractual modifications and quantify the possibility that such contracts will result in a diminution in payment to the insurer, so this can be reflected in the NAIC Designation assigned to the security through the application of the notching process."

The proposed amendment further clarifies through additional illustrations that securities that:

> a) incorporate the performance of other assets to determine their contractual payments, either directly or indirectly through reference pools, equity baskets, or indices;
> b) receive payments as the remainder or residual cashflow after all other payment obligations have been made;
> c) receive additional performance or bonus cashflows; or
> d) have no contractual events of payment default;
> e) would also be considered as having "Other Non-Payment Risks"

Staff asked permission to continue to work with industry to modify language. The task force directed staff to work with industry on technical modifications and to also expose that language.

<u>Receive and Discuss a Proposed Referral to the Blanks (E) Working Group to Add Fixed Income Analytical Risk Measures to Investments Reported on Schedule D, Part One (Doc. ID: 2021-053.01) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

The SVO proposes adding additional market-data fields for bond investments to the annual statement instructions based on 2010 adopted recommendations of the Rating Agency (E) Working Group (RAWG) and the IAO staff's findings regarding the discrepancies between ratings, presented in its Nov. 2021 memo.

The RAWG made the following summary recommendations in their Apr. 28, 2010, report that was adopted by the Financial Condition (E) Committee:

> 1. Regulators explore how reliance on ARO (Approved Ratings Organization) ratings can be reduced when evaluating new, structured, or alternative asset classes, particularly by introducing additional or alternative ways to measure risk;
>
> 2. Consider alternatives for regulators' assessment of insurers' investment risk, including expanding the role of the NAIC Securities Valuation Office ("SVO"); and
>
> 3. When considering continuing the use of ratings in insurance regulation, the steps taken by the NRSROs in correcting the causes that led to recent rating shortfalls, including the NRSROs' efforts in implementing the recommended structural reforms, should be taken into account.

Other fields that measure a security's price sensitivity to interest rate movements may also help to identify market-perceived risk inconsistent with the assigned credit rating. These additional market data fields would align with the RAWG's referral to the Task Force and SVO Initiatives (EX) Working Group, as noted in their following detailed recommendations:

> 1. Referral to the NAIC Valuation of Securities (E) Task Force: VOS should continue to develop independent analytical processes to assess investment risks. These mechanisms can be tailored to address unique regulatory concerns and should be developed for use either as supplements or alternatives to ratings, depending on the specific regulatory process under consideration.
>
> 2. Referral to the NAIC Valuation of Securities (E) Task Force: ARO ratings have a role in regulation; however, since ratings cannot be used to measure all the risks that a single investment or a mix of investments may represent in an insurer's portfolio, NAIC policy on the use of ARO ratings should be highly selective and incorporate both supplemental and alternative risk assessment benchmarks.
>
> 3. Referral to the NAIC's SVO Initiatives (EX) Working Group: NAIC should evaluate whether to expand the use of SVO and increase regulator reliance on the SVO for evaluating credit and other risks of securities

SVO is recommending market data fields and related descriptions to be added to all annual statement instructions for all bonds reported on Schedule D, Part 1. SVO wants to allow sufficient time to update systems, so changes would not be implemented until December 31, 2023.

One consumer asked questions about variables: are we using the right variables? Too many? Not enough? The individual simply wanted to emphasize the complicated nature of this undertaking.

The American Property and Casualty Insurance Association asked for more than 30 days for the exposure period—it instead requested 45 or 60 days.

The task force directed staff to expose request for 45 day comment period and to prepare referral to blanks working group.

<u>Receive and Discuss Comments on a Proposed Amendment to the P&P Manual to add guidance on the designation of Schedule BA assets with fixed income characteristics (Doc. ID: 2021-049.01, 2021-049.02) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

The SVO recommends updating the instructions in Part Three of the Purposes and Procedures Manual of the NAIC Investment Analysis Office (the "P&P Manual") to include guidance related to the assignment of NAIC Designations to Schedule BA assets with underlying characteristics of bonds or fixed income instruments. Part One of the P&P Manual currently permits the SVO to assign NAIC Designations to Schedule BA assets with underlying characteristics of bonds or fixed income instruments, but there is currently no specific guidance for the SVO in Part Three.

Including the proposed provisions would enable the SVO to assign NAIC Designations to Schedule BA assets which are not expressly covered by other sections of the P&P Manual (e.g. Schedule BA Non-Registered Private Funds with Underlying Assets Having Characteristics of Bonds or Preferred Stock). Schedule BA assets for life and fraternal insurers benefit from NAIC Designations because they would be eligible for more favorable RBC treatment. The SVO's authority to assign NAIC Designations to certain Schedule BA assets already exists. Part One of P&P Manual states that, "The SVO is assigned to assess investment securities reported to state regulators on Schedule D and Schedule BA." (Paragraph 40). Additionally, the P&P explains that to be eligible for the assignment of an NAIC Designation a Schedule BA asset must have underlying characteristics of a bond or fixed income instrument.

This proposed amendment would potentially make various types of assets eligible for an NAIC Designation which currently are not. Each asset would need to be individually assessed by the SVO for bond or fixed income characteristics. At this time, the group recommends that they continue working with industry on this topic.

Northwestern Mutual expressed its longstanding shared goal with SVO to get NAIC on fixed income like instruments. This may need to be referred to Capital Adequacy. It supports the effort and is working with the SVO.

The task force directed staff to continue to work with industry. This will likely be referred to Capital Adequacy at some point.

<u>Discuss and Consider for Adoption a Proposed Amendment to the P&P Manual to permit un-guaranteed and unrated subsidiary obligors in WCFI transactions, with SVO discretion (Doc. ID: 2021-050.01, 2021-050.02, 2021-050.03) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

The SVO has received comments from certain insurers and other interested parties that it should assign NAIC Designations to Working Capital Finance Investments (WCFI) with unguaranteed and unrated obligors, based on the implied support from an obligor's NAIC Credit Rating Provider (CRP) rated parent.

In November 2020, the Task Force exposed a proposed amendment to the Purposes and Procedures Manual of the NAIC Investment Analysis Office (the "P&P Manual") to direct the SVO to rely upon the NAIC Designation or NAIC CRP Rating equivalent of the subsidiary obligor's parent entity, with allowance for the SVO to notch down from the parent's rating or NAIC Designation due to its assessment of certain factors regarding the parent/subsidiary relationship. In response to feedback from some Task Force members and interested parties, the SVO subsequently presented a revised proposal to the Task Force at the Summer 2021 National Meeting to remove its discretion to notch because, as demonstrated in its memorandum to the Task Force of October 16, 2020, the SVO found no generally accepted analytical technique or methodology to support the assumption that a parent entity will necessarily support its subsidiary in times of financial distress. This revised amendment was also not adopted by the Task Force.

The SVO is now proposing a new clean amendment which is substantially similar to the original and reflects the comments from some Task Force and Statutory Accounting Principles (E) Working Group members that they would like the SVO to retain discretion to notch down, as they deem appropriate. Like the November 2020 amendment, the Task Force would direct the SVO to imply the parent's support of its subsidiary and would give the SVO discretion to assign an NAIC Designation to the subsidiary which is lower than that of the parent based on its assessment of the parent/subsidiary relationship. However, this new proposal clarifies that if the SVO notches the NAIC Designation of a subsidiary obligor down from that of its parent resulting in a credit assessment below an NAIC 2, the WCFI program would not be eligible for an NAIC Designation because it would no longer meet the definition of an eligible "Obligor" in Statements of Statutory Accounting Principles 105R – Working Capital Finance Investments.

During exposure period, a comment letter was sent with comments related to capital finance. It came to SVO's attention that the draft related to disclosures of WCFI was not posted in meeting materials, but it is now in documents tab of webpage. The Statutory Accounting Working Principles Group does not intend to revisit this at the current time. If adopted, SVO will monitor WCFI programs and keep the task force updated.

ACLI explained that it appreciate notes of WCFI and agrees to adopt today.

The task force adopted the P&P Manual Amendment.

<u>Receive and Discuss Comments on a Staff Report on Use of NAIC Designations by Other Jurisdictions in the Regulation of Insurers (Doc. ID: 2021-051.01, 2021-051.02) —Carrie Mears (IA), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

The SVO was made aware of regulators or insurers in non-U.S. jurisdictions, e.g. Bermuda Monetary Authority and Japan's Financial Services Agency, either referencing NAIC Designations in their regulatory processes or wanting to reference them. The Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) is very specific that NAIC Designations are only intended for NAIC members consisting of the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories. Paragraphs from the P&P Manual explain in further detail the intended, proper and authorized uses of NAIC Designations.

Recommendation: If, despite the current restrictions on the use of NAIC Designations noted, NAIC members consider it worthwhile to have the ability to approve the use of NAIC Designations by the insurance regulators of certain non-member jurisdictions, SVO would recommend certain conditions be met. These conditions would include acknowledgement by the requesting regulator in a memo of understanding (MOU) (i) of the intended purposes of NAIC Designations (including that NAIC Designations are not the functional equivalent of credit ratings), and (ii) that the requesting regulator's uses may deviate from those purposes. Additionally, a formal process would need to be created, involving necessary amendments to the P&P Manual, to authorize and rescind authorization of the requesting jurisdiction. Consideration of the jurisdiction's recognition by the Mutual Recognition of Jurisdictions (E) Working Group could be another requirement of authorization. Once authorized and listed in the P&P Manual, insurers in that jurisdiction could then be given access to the SVO List of Investment Securities compiled in AVS+ and be permitted to file securities with the SVO.

Why is this important and supported? ACLI explained that U.S. Dollar Private Placements are important in Japan. If assets are considered un-rated, there could potentially be market disruption on assets. This is a great opportunity for international regulatory cooperation that is primarily under the control of NAIC. NAIC can be explicit about what designations Japan and Bermuda can use this for to create some additional control.

One individual explained that this has great merit, but the notion that there is something special about NAIC Designation is something to consider given there are many rating groups.

The task force directed staff to forward the proposal to the NAIC Executive Committee. If there is a memorandum of understanding, it should consider if guardrails are needed to ensure usage lines with expectation.

<u>Receive a Report from SVO on Year-end Carry-over Filings (Doc. ID: 2022-001.01) —Carrie Mears (AL), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

For 2021, the SVO reviewed 12,358 filings comprised of 3,199 initial filings, 7,932 annual updates, 208 material changes, and 13 appeals. In comparison, in 2020, the SVO reviewed 12,696 filings comprised of 3,092 initial filings, 7,866 annual updates, 299 material changes and 15 appeals. The total filing numbers included 1,953 manually processed private rating letters versus 2,027 in 2020.

There were also 828 carry-over filings for year-end 2021 versus 795 in 2020, 310 of which received an "IF" for an accepted initial filing and 518 received a "YE" for an accepted annual update. This represented a carry-over rate for 2021 of 6.7% which was comparable to the 6.3% rate for 2020, well below the rate of 10% or higher that would be considered concerning and reflective of a resource constraint for the office. As of March 10th, there were 140 carry-over filings remaining.

Overall, this was a solid performance by the group, and, at this time, there are no significant SVO analyst resource constraint issues. The office continues to experience significant resource limitations regarding technology support that have impacted the ability to improve the core systems, VISION, AVS+ and STS, or fully utilize our investment data. If additional analytical tasks are assigned to the SVO, which they are always happy to take on for the Task Force, additional SVO analysts or other resources may be needed.

The technology issues come up often so may need to discuss this as a task force. The task force will save this for a later time.

<u>Hear a Staff Report on Project of the Statutory Accounting Principles (E) Working Group —Carrie Mears (IA), Julie Gann (NAIC)</u>

The staff working group met April 4. There were three adoptions and two exposures.

First, the group adopted a proposal to support new reporting related to cryptocurrency. There is a general interrogatory up for adoption in May focusing on the goal to capture information about use of cryptocurrency. This will be concurrent exposure with blanks working group.

Second, it adopted revisions related to financial modeling and considered whether to remove guidance from SAP. It decided to retain guidance.

It also discussed the Principles Based Bond Project. This was exposed in March with comments due on May 6. The working group has received comments from industry. It further discussed reporting changes to determine whether investment is with related party. The comment period ends May 6.

<u>Hear a Staff Update on New RMBS/CMBS Thresholds and Price Breakpoints —Eric Kolchinsky (NAIC)</u>

With respect to breakpoints, the plan is to apply current methodology with different RBC levels. NAIC will still release for comment. The staff is closely working with vendors on scenarios and hopes to release shortly. Staff would love to hear and have robust discussions with regulators and the industry.

<u>Hear a Staff Update on the Ad Hoc CRP Study Group —Carrie Mears (AL), Charles Therriault (NAIC), Marc Perlman (NAIC)</u>

Ad Hoc group met March 11 to discuss objectives and to discuss mapping analysis framework that one agency uses to match other ratings to ratings scale.

The full meeting materials can be found here.

Financial Regulation Standards and Accreditations (F) Committee

The NAIC Financial Regulation Standards and Accreditation (F) Committee met on Tuesday, April 5, 2022, at the NAIC Spring National Meeting. Below is a summary of the meeting:

Consider Adoption of its 2021 Summer National Meeting Minutes —Director Lori K. Wing-Heier (AK)

Meeting minutes were adopted.

Discuss Revisions Adopted in 2021 to NAIC Publications Referenced in the Accreditation Standards—Director Lori K. Wing-Heier (AK)

The Committee considered insignificant changes to the following publications: Accounting Practices and Procedures Manual, Annual Statement Blanks and Instructions, Risk-Based Capital Report Including Overview and Instructions, Purposes and Procedures Manual of the NAIC Investment Analysis Office, and Valuation Materials. It explained that changes are insignificant. The materials include explanations of these changes. There was a motion to adopt provisions deemed insignificant. This motion passed.

The Financial Examiners Handbook (E) Technical Group identified inconsistency between guidance in the examiners handbook and the accreditation guidance. Specifically, the handbook guidance requires date coordination documentation for holding company groups with insures domiciled in multiple states whereas the accreditation guide requires the same documentation for holding groups with multiple insurers.

The group made a recommendation to align accreditation guidelines with handbook guidance as outlined in the memo. There was a motion to expose revisions for a 30-day public comment period. Comments are due May 6.

Consider Referral from the Receivership and Insolvency (E) Task Force Regarding Receivership Updates to Holding Company Models —Director Lori K. Wing-Heier (AK)

The NAIC Executive (EX) Committee and Plenary adopted Receivership provisions in models 440 and 450 in Summer 2021. The revisions help to ensure coordination with affiliates and to enforce continuation of essential services in event of insolvency. The task force adopted referral in which it recommends that part A accreditation standards for consideration by Committee related to receivership provisions. It recommends the language "acceptable but not required" to be adopted by states. The report stated as follows:

> On August 17, 2021, the NAIC Executive (EX) Committee and Plenary unanimously adopted revisions to the NAIC Insurance Holding Company System Regulatory Act (#440) and Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450). The revisions help ensure efficient coordination with affiliates and to

enforce the continuation of essential services by an affiliate to an insurer in the event of insolvency.

These revisions were drafted by the Receivership Law (E) Working Group under charges assigned by the Receivership and Insolvency (E) Task Force. These revisions, referred to as the "receivership revisions" do not include recent revisions to Models #440 and #450 for group capital calculation or liquidity stress test. The receivership revisions address the continuation of essential services through affiliated intercompany agreements with an insurer that is placed into receivership by: 1) bringing affiliate service providers deemed "integral" or "essential" to an insurer's operations under the jurisdiction of a rehabilitator, conservator, or liquidator for purposes of interpreting, enforcing, and overseeing the affiliate's obligations under the service agreement and give the commissioner authority to require that "integral" or "essential" affiliate service providers consent to such jurisdiction; 2) further clarifying the ownership of data and records of the insurer that are held by the affiliate; and 3) clarifying that premiums of the insurer held by the affiliate are the property of the insurer and rights of offset are determined by receivership law. See attachment A for a copy of the amendments.

The recommendation for Part A Accreditation Standards is that these receivership revisions be considered acceptable, but not required to be adopted by states. However, the revisions are considered important and allstates are encouraged to adopt them. States may consider adoption of the changes in conjunction with opening their holding company laws to consider adoption of the Group Capital Calculation and Liquidity Stress Test revisions.

The Task Force will continue to encourage states to adopt these revisions based on the benefits these revisions add to state regulation, and to the goal of improving efficiencies in receivership and reducing costs to a receivership estate.

The Committee exposed the 2021 revisions to the Insurance Holding Company System Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450) to be acceptable for accreditation but not required for a 30-day public comment period ending May 6.

<u>Consider a Recommendation from the Financial Condition (E) Committee Regarding Variable Annuity Captives—Director Lori K. Wing-Heier (AK)</u>

Captives are generally excluded from accreditation standards, with the exception of captive retention groups and captives that reinsure term and universal life with secondary variable annuities in long term care business. Last spring, the Committee sent request to (E) Committee for more information on the extent variable annuities and long-term care captives are used. The response was the following:

> I received your April 14 memo requesting information on the extent the referenced captives are used, any trends on the use of the captives, reasons for such trends, and any relevant updates on work done in the areas of variable annuities and long-term care insurance (LTCI). Upon receiving your memo, I referred your request to the Financial Analysis (E) Working Group. Since the Working Group ultimately collected the information on the use of captives by surveying domestic states using the states' confidentiality standards, the Working Group's response memo will be submitted to the Financial Regulation Standards and Accreditation (F) Committee as a separate regulator-only document. However, for the purposes of this memo, I would note that one of the key takeaways from the Working Group is that the current impact to the risk-based capital (RBC) of the domestic insurers utilizing these captives is minimal. I would also like to provide you with updates on work done on variable annuities and LTCI. In 2018, the Financial Condition (E) Committee adopted a revised framework for variable annuities, which became effective Jan. 1, 2020. The changes were specifically designed to remove the non-economic volatility within the previous framework, therefore removing the major reason for the use of captives for variable annuities. The Committee believes it is an appropriate time to remove the "to be determined (TBD)" effective date in the Accreditation Preamble and replace it with a reference to VM-21, Requirements for Principle-Based Reserves for Variable Annuities. For LTCI, the Financial Condition (E) Committee has not developed any new standards that could be used to justify the removal of the TBD status. Although the impact of the use of captives for LTCI still appears to be minimal, the Committee recommends that this aspect of the Accreditation Preamble be retained and that the Financial Regulation Standards and Accreditation (F) Committee continue to monitor the use of captives for LTCI. In summary, the Financial Condition (E) Committee recommends a replacement of the TBD in the Accreditation Preamble for variable annuities with VM-21 and retaining the TBD for LTCI.

The memo recommends placing "to be determined" effective date with a reference to valuation manual requirements. Since the valuation manual is already required for accreditations, the proposed amendment does not represent a new requirement.

The Committee exposed the proposed updates to the Preamble of the Accreditation Program Manual to reference VM-21, Requirements for Principle-Based Reserves for Variable Annuities, for a 30-day public comment period ending May 6. The proposed revisions serve as a reference for how captives that reinsure variable annuity business are addressed in the accreditation standards.

<u>Discuss Any Other Matters Brought Before the Task Force —Director Lori K. Wing-Heier (AK)</u>

None.

The full meeting material may be found [here].

Innovation, Cybersecurity and Technology (H) Committee

The Innovation, Cybersecurity & Technology (H) Committee (the "Committee") met for the first time on Tuesday, April 5, 2022 at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

Consider Proposed Revisions to the Innovation, Cybersecurity, and Technology (H) Committee Structure and Its Working Group Charges

Commissioner Kathleen A. Birrane (MD) explained the revisions to the (H) Committee Structure and Charges, which are provided in Attachment One.

The first proposed change was to move the Speed to Market (H) Working Group to the Market Regulation and Consumer Affairs (D) Committee. Given the nature of the Working Group's charges, Commissioner Birrane shared that it has been agreed that the Working Group fits better under the (D) Committee. The next proposed change is to move the Privacy Protections (D) Working Group to the H Committee as a result of a recommendation received from the ad hoc group charged with putting together the proposal for the new (H) Committee. The decision to move this Working Group was unanimous among the interested groups, particularly because privacy is within the charge of the (H) Committee. The third proposed change was to make a clarifying amendment to the Committee's charges so that it includes "data ownership and use rights" in order to adequately capture this issue. Lastly, there was a proposal to form a new Working Group, the Innovation in Technology and Regulation (H) Working Group. This Working group will serve as the platform by which the (H) Committee will provide educational opportunities for regulators to look into evolving and new developments on the innovation and technology front. The Chair of the new Working Group will be Director Evan Daniels (AZ), and the Co Vice-Chairs will be Director Dana Popish Severinghaus (IL) and Director Judith French (OH).

Director Daniels shared that the goals of this Working Group are to facilitate discussion between all stakeholders regarding ways in which regulators are facilitating innovation in their state, as well as identify issues affecting the insurance marketplace and provide an informal forum to discuss with regulators how those things are affecting the marketplace.

The proposed revisions to the Innovation, Cybersecurity, and Technology (H) Committee Structure and its Working Group charges were adopted without objection.

Consider Adoption of its Working Group Reports

Superintendent Elizabeth Kelleher Dwyer (RI), Cynthia Amann (MO), Commissioner Troy Downing (MT), and Commissioner Birrane, respectively, read the Reports for the Big Data and Artificial Intelligence (H) Working Group, Cybersecurity (H) Working Group, E-Commerce (H) Working Group, and the Speed to Market (H) Working Group. The Working Group Reports are provided in Attachment Two.

All Reports were adopted without objection.

Receive an Update on the Casualty Actuarial and Statistical (C) Task Force Predictive Model Review Process

Eric Slavich (WA) shared that the Casualty Actuarial and Statistical (C) Task Force ("CASTF") met in lieu of the National Meeting on March 8, 2022. For the last several years, CASTF has heavily concentrated on predictive modeling activities. To provide a foundation, Mr. Slavich noted two things: (1) States are approving rates filed, and rate models are used in support of those rates; and (2) The rate models evaluated today are for risk classification and not for overall rate levels.

CASTF completed its first predictive modeling product in 2020, with its adoption of the NAIC White Paper entitled, "Regulatory Review of Predictive Models." This paper concentrates on the rate model review of generalized linear modeling ("GLM") submitted to support insurance company rates, and includes best practices and guidance to put into the product filing examiners handbook as well as an appendix detailing modeling specifics that regulators should review for a GLM. On its March 8th call, CASTF adopted a similar appendix and intends to continue to develop additional guidance for other types of models, with generalized additive models ("GAM") as next in line.

CASTF has two charges that require calls separate from its normal business meetings, which Mr. Slavich encouraged the states to participate in: (1) Facilitate discussion among state insurance regulators regarding rate filing issues of common interest across the states through the scheduling of regulator-only conference calls on the third Tuesday of each month; and (2) Facilitate training and the sharing of expertise through predictive analytics webinars ("Book Club") on the fourth Tuesday of each month. CASTF received a new charge this year, which is to review the completed work on artificial intelligence (AI) from other Committee groups, coordinate with the Innovation, Cybersecurity, and Technology (H) Committee on the tracking of new uses of AI, auditing algorithms, product development, and other emerging regulatory issues, in as far as these issues contain a Task Force component.
Members of CASTF have also been working closely with NAIC staff hired to form the NAIC Rate Model Review Team, which was created at the behest of the Big Data and Artificial Intelligence (H) Working Group and the Executive (EX) Committee. This team has reviewed 54 rate models since the end of 2020, and has also produced 127 reports to assist regulators with their reviews of these models. These reports are accessible by the 31 states that have signed the Rate Review Support Services Agreement with the NAIC.

Receive an Update on the Privacy Protections (D) Working Group 2022 Work Plan

Katie C. Johnson (VA), Chair of the Working Group, introduced the final exposure draft of the 2022 Work Plan. The 2022 Work Plan is provided in Attachment Three.

The 2022 Work Plan is a spreadsheet that provides a detailed, two-year schedule that contains dates and deliverables including identifying gaps, creating exposure drafts, gathering comments, and discussing and addressing all comments received, revising NAIC Model Privacy Act 670 and NAIC Model Privacy Regulation 672 on a section-by-section basis, and drafting a White Paper on data ownership and use rights.

Discuss the Coordination of Related Workstream Activity in Other NAIC Committees

Commissioner Birrane explained that one of the highest priority charges to the Committee is to facilitate appropriate levels of cooperation and collaboration among NAIC working groups with respect to topics that relate to innovation, technology, cybersecurity, and privacy in the insurance sector. This charge was a foundational element in the decision to form the H Committee. One of the first tasks for the Committee is to determine how to operationalize this charge.

The first step was to identify the working groups within the NAIC that include, within their current charges, topics that overlap with the (H) Committee's charges. This effort was undertaken by NAIC staff, and the leadership from each Committee and group met to discuss what coordination and collaboration might look like. These discussions resulted in an operational framework where the (H) Committee will have an appropriate level of intersection with each related group whose current work focus overlaps with, or is relevant to, the (H) Committee. The categories of interface are: (1) awareness and monitoring of work focus, which includes groups whose work has no direct overlap with the (H) Committee, but whose work can inform the (H) Committee, such as the Market Actions Working Group ("MAWG"); (2) overlapping representation, which includes groups whose work is more directly related to the work of the (H) Committee, and where each should be aware of the work of the other, such as the Cybersecurity (H) Working Group and the Working Group concerned with cyber insurance under the (C) Committee; and (3) joint projects or products, which applies in circumstances where a related group is working on a project that overlaps with the (H) Committee and the groups will share the responsibility; and (4) absorption into the (H) Committee, such as the Privacy Protections (D) Working Group.

Additionally, there are topics that cut across many related groups such as the detection of unfair bias in the use of AI/ML decision systems. For these topics, the (H) Committee is establishing the Collaboration Forum. This will serve as a platform for multiple NAIC working groups to identify and address foundational issues, and develop a common framework that can inform the specific work of those groups. When a topic such as this is identified, the groups that are involved will have a meeting and potentially form a project within the Collaboration Forum if a consensus is reached. The first project of the Collaboration Forum will be the "algorithmic bias project."

Another way that the (H) Committee will collaborate and coordinate, is to facilitate awareness and communication around what related groups are working on. To that end, the (H) Committee will be launching the Innovation, Cybersecurity & Technology ("ICT") Hub that will serve as a portal of resources that relate to relevant topics and issues.

Discuss Other Innovation, Cybersecurity, and Technology (H) Committee-Level Projects

Director Daniels shared that this project is inward-focused, in that it is focused on what regulators are doing and how they are using technology to do their jobs. The idea is to form, at the (H) Committee level, an educational group to facilitate training and education for regulators on topics relevant to the (H) Committee. This will also provide a forum for regulators to discuss concerns and share information about specific technologies that they are seeing in their market.

Any Other Matters

Denise Matthews (NAIC) provided a brief update on the Insurance Data Security Model Law (#668), and the Model Unfair Trade Practices Act (#880). She shared that Model 668 has been adopted in 19 jurisdictions, and it is pending in 6 jurisdictions. Additionally, the revisions to Model 880 has been adopted in 2 jurisdictions, and it is pending in 7 jurisdictions.

Big Data and Artificial Intelligence (H) Working Group

The Big Data and Artificial Intelligence (H) Working Group met on Tuesday, April 5, 2022, at the NAIC Spring National Meeting, and the agenda can be found here. Below is a summary of the meeting:

Discuss Big Data and Artificial Intelligence (H) Working Group Workplan

Superintendent Elizabeth Kelleher Dwyer (RI) stated that the main document for discussion is the Working Group's 2022 Work Plan that builds on the Working Group's discussions last year and the themes of the artificial intelligence (AI)/machine learning (ML) ("AI/ML") surveys. The three charges of the Working Group are as follows: (1) Research the use of big data and AI/ML in the business of insurance and evaluate existing regulatory frameworks for overseeing and monitoring their use; (2) Review current audit and certification programs and/or frameworks and assess data and regulatory tools needed for state insurance regulators to appropriately monitor the marketplace that could be used to oversee insurers' use of consumer and non-insurance data, and models using intelligent algorithms, including AI; (3) Review currently available data and tools, as well as recommendations for development of additional data and tools, as appropriate. Based on this assessment, the Working Group is to propose a means to include these tools in existing and/or new regulatory oversight and monitoring processes to promote consistent oversight and monitoring efforts across state insurance departments.

Superintendent Dwyer stated that Workstream 1 will be conducting surveys to gather objective data on what is happening in the industry directly from the industry, and will continue with the analysis of the AI/ML private passenger auto ("PPA") survey data. The Workstream will use the PPA data and experience to inform the development of an AI/ML homeowner's survey and an AI/ML life insurance survey. Workstream 2 will determine the appropriate regulatory evaluation of third-party data and model vendors and produce a recommended regulatory framework for monitoring and overseeing the industry's use of third-party data and model vendors. Workstream 3 will gather data and evaluate information from sources including vendors, academics, industry, and international supervisory authorities, on governance models and frameworks and software tools and resources, which could assist regulators in overseeing and monitoring industry's use of data and AI/ML and eliminate unintended bias in such use. The Workstream will coordinate with other NAIC Committees engaged in similar efforts. Workstream 4 will evaluate how best to implement the expectations outlined in the NAIC AI principles and provide suggestions on next steps, which could include regulatory guidance or development of a model regulation.

Superintendent Dwyer emphasized that all of this work should result in recommendations to the (H) Committee, which will then review the recommendations and coordinate, as appropriate, with other NAIC Committees.

The 2022 Work Plan can be found here.

Receive Reports and Workplans from its Workstreams

Artificial Intelligence (AI)/Machine Learning (ML) Survey Work

Kevin Gaffney (VT) provided the report for Workstream 1. Mr. Gaffney explained that the homeowner's survey, as mentioned above, is to be issued in June. The related life insurance survey is to be issued in August. The participants for the homeowner's survey will be the same at the PPA survey, but there will be additional participants for the life insurance survey. Company data will be collected on a confidential basis, and a public White Paper under Workstream 4 will utilize the information gathered from these surveys.

Third-Party Data and Model Vendors

Commissioner Doug Ommen (IA) provided the report for Workstream 2. Commissioner Ommen explained that a group of regulator subject-matter experts will evaluate the activities of third-party data and model vendors and produce a first cut at producing a recommended regulatory framework for monitoring and overseeing the industry's use of these vendors. The findings and insights will then be reported to the Working Group for public discussion and a recommendation to the (H) Committee. Future work will be shared with and referred to other NAIC groups. Commissioner Ommen explained that there are two areas of focus: (1) identifying new entities that are operating in the marketplace, better understanding operating practices, and identifying how states are currently licensing these entities; and (2) developing examination standards or questions that states can use when engaging with third-party vendors and insurers regarding their use of third-party data vendors.

Coordination of Presentations on Available Tools and Resources for Monitoring Industry's Use of Data and AI/ML

Executive Deputy Superintendent Kaitlin Asrow (NY) provided the report for Workstream 3. Ms. Asrow stated that New York is undertaking a review of the existing trends, tools, and approaches that can be or are being deployed by supervisors in the United States and globally concerning the use of AI/ML by insurance companies. Ms. Asrow stated that she anticipates conducting a review of the supervisory technologies and methods that will assist regulators in better identifying disparate impact and unfair discrimination in the results of AI/ML-derived algorithmic decisions. There will also be a review of "de-biasing tools" and vendors that regulated entities may be using directly to detect discrimination. The goal is to produce and share with the Working Group a comparative summary of the supervisory approaches and processes that other regulators are utilizing as they supervise and examine the use of AI/ML technologies by insurance companies. The summary will include relevant model governance frameworks that have been used by regulators in insurance, banking, credit, or other financial services purposes. Ms. Asrow explained that the Workstream will work closely with Workstream 2 and 4.

Regulatory Framework/Governance

Commissioner Amy L. Beard (IN) provided the report for Workstream 4. Commissioner Beard explained that the deliverable for this Workstream is to propose a regulatory framework as the next steps in the implementation of NAIC AI principles, including possible recommendations to the appropriate subject matter expert Committees. The next steps for the Workstream are to reach out to the other Workstreams in order to collaborate in evaluating how best to implement the expectations outlined in the NAIC AI principles and provide suggestions on next steps, which could include regulatory guidance or development of a model regulation. Ultimately, the goal is to develop a White Paper.

Superintendent Dwyer stated that the representatives from each of the Workstreams are to return to the Working Group within 45-60 days for a call to discuss their project and solicit additional public commentary.

Receive an Update on its AI/ML Survey Work

Mr. Gaffney provided a more in-depth report concerning Workstream 1's surveys. The purpose of these surveys is to learn directly from the industry about what is happening in the AI/ML space, get a sense of the current risk and mitigation of risk, develop information for trending, inform a meaningful regulatory approach for overseeing and monitoring AI/ML activity, and learn from prior surveys to improve future surveys.

The PPA survey was conducted in nine states: CT, IL, IA, LA, NV, ND, PA, RI, and WI. The same states are to be surveyed in the homeowner's survey, and the following states are to be surveyed in the life insurance survey: CO, CT, IL, IA, LA, MN, ND, NE, OR, PA, RI, VA, WI.

In response to the PPA survey, the Working Group received 193 filings. The survey results are broken out by model use of AI/ML data, where claims is the most cited use, and fraud detection, marketing, rating, underwriting, and loss prevention are the other identified uses. A visual depiction of these results can be found in the meeting presentation here.

Mr. Gaffney explained that the goal is to get the PPA data analysis from the NAIC team this summer, and the SME group will then complete a report to present to the Working Group by the Fall National Meeting. With respect to the homeowner's survey, the intent is to distribute the survey towards the end of June. For the life insurance survey, the goal is to distribute the survey by the end of August.