Draft: 8/25/21

Property and Casualty Insurance (C) Committee
Columbus, Ohio
August 16, 2021

The Property and Casualty Insurance (C) Committee met in Columbus, OH, Aug. 16, 2021. The following Committee members participated: Vicki Schmidt, Chair (KS); Mike Chaney, Vice Chair (MS); Jim L. Ridling (AL); Ricardo Lara represented by Ken Allen (CA); Andrew N. Mais (CT); Colin M. Hayashida represented by Martha Im (HI); Amy L. Beard (IN); James J. Donelon (LA); Kathleen A. Birrane (MD); Grace Arnold represented by Phil Vigliaturo (MN); Larry D. Deiter (SD); Tregenza A. Roach (VI); Michael S. Pieciak (VT); Mike Kreidler represented by Molly Nollette (WA); and James A. Dodrill (WV). Also participating were: Lori K. Wing-Heier (AK); Michelle Brugh Rafeld (OH); and Don Beatty (VA).

1. Adopted its Spring National Meeting Minutes

Director Deiter made a motion, seconded by Commissioner Chaney, to adopt the Committee's April 13 minutes (*see NAIC Proceedings – Spring 2021, Property and Casualty Insurance (C) Committee*). The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

   a. Casualty Actuarial and Statistical (C) Task Force

Mr. Vigliaturo reported that the Casualty Actuarial and Statistical (C) Task Force has been assisting the Blanks (E) Working Group in evaluating two proposals for expansion of information to be included on the Property and Casualty Annual and Quarterly Statements: 1) proposal 2021-11BWG, which adds data reporting on policy writings for private passenger and homeowners insurance; and 2) proposal 2021-13BWG, which expands reporting for general liability insurance to include subline detail. The Task Force responded to the initial requests from the Working Group by offering future assistance on the first proposal and supporting the second proposal. After the Working Group met at the end of July, it sent the Task Force a modified personal lines proposal and asked for feedback while simultaneously asking financial groups whether the proposed data assists financial solvency regulation in line with the purpose of the annual statement. Mr. Vigliaturo said the Statistical Data (C) Working Group will be exploring the possibility of getting the data from statistical agents earlier each year.

Mr. Vigliaturo said the Task Force is also in the process of responding to a second exposure draft for U.S. qualification standards from the American Academy of Actuaries (Academy). He also reported that the predictive model training called the "Book Club" and the monthly regulator-only discussion about rate filing issues continue, and both offer valuable information for actuaries and non-actuaries. He said both are valuable projects for the NAIC when it comes to educating state insurance regulators on predictive models and sharing expertise on rate issues.

   b. Surplus Lines (C) Task Force

Commissioner Donelon said the Surplus Lines (C) Task Force met Aug. 16 and adopted the 2022 proposed charges of the Task Force and the Surplus Lines (C) Working Group. He said the Surplus Lines (C) Working Group met in June in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings, to discuss two applications seeking admission to the July 1 *Quarterly Listing of Alien Insurers*. Commissioner Donelon also reported that the Task Force has formed a drafting group to amend the *Nonadmitted Insurance Model Act* (#870).

   c. Title Insurance (C) Task Force

Ms. Rafeld said the Title Insurance (C) Task Force met May 11 and heard an update on revisions to the *Title Insurance Consumer Shopping Tool Template.* She said AM Best presented on current trends in the title insurance sector as detailed in its recent "Market Segment Outlook: U.S. Title Insurance." In February, AM Best revised its U.S. title industry outlook from negative to stable due to exceptional performance in 2020. The title industry overall was the most profitable segment in the property/casualty (P/C) industry. The use of innovative technology and a surge in home refinances and purchases in the latter half of 2020 supported the industry. She also reported Birny Birnbaum (Center for Economic Justice—CEJ) presented on how state insurance regulators could use after-tax return on capital to determine what a reasonable profit is for a title insurer.

Ms. Rafeld said the Task Force also met July 13 and took the following action: 1) adopted revisions to the *Title Insurance Consumer Shopping Tool Template;* 2) heard a presentation from the Federal Bureau of Investigation (FBI) on business email compromise schemes and other cybercrimes; and 3) heard from state insurance regulators about title insurance fraud trends in their respective states. Trends included fraudulent settlement transactions, wire fraud complaints, cybercrime, and defalcations.

d. Workers' Compensation (C) Task Force

Director Wing-Heier said the Workers' Compensation (C) Task Force met July 21 and heard a presentation about the classification of telecommuters and the potential implications of an increase in telecommuting on workers' compensation. She said the National Council on Compensation Insurance (NCCI) reported that in May 2020, about 35% of the employed work force reported they had worked from home due to COVID-19. A McKinsey Global Institute study estimated that about 29% of the work done in the U.S. could be done remotely with no loss in productivity. The NCCI sees no indication that there will be any significantly large impacts to workers' compensation even if remote work does catch on as expected.

Director Wing-Heier noted the Task Force continues to monitor COVID-19 as claims information becomes available. To date, there has not been a significant impact on workers' compensation insurance. Workers' compensation rates continue to fall in 2021, and the market is still stable.

e. Cannabis Insurance (C) Working Group

Mr. Allen said the Cannabis Insurance (C) Working Group met April 27 and held a panel discussion on cannabis insurance-related legislation, including: 1) the Secure and Fair Enforcement (SAFE) Banking Act of 2021, which would create a safe harbor for banks providing services to cannabis-related businesses in legal states; and 2) the Clarifying Law Around Insurance of Marijuana (CLAIM) Act, which would create a safe harbor for insurers engaging in business with cannabis-related businesses.

Mr. Allen said the Working Group also met May 27 and discussed a draft memorandum to the Government Relations (EX) Leadership Council recommending that the Leadership Council consider supporting the SAFE Banking Act and CLAIM Act. These bills would help remove federal barriers for insurers to conduct business with any state legalized cannabis-related businesses, thereby helping to provide insurance coverage options for these commercial policyholders that will mitigate their business risks.

Mr. Allen said the Working Group held a two-day hearing on July 19 and July 27. The first day of the hearing provided a foundation of understanding and a look at insurance product availability in the cannabis-related insurance market. It included presentations on the impact of the geographical expansion of legalized cannabis states; the cannabis regulatory and licensing landscape; the unique insurance needs of the cannabis market; commercial cannabis product options; and admitted and nonadmitted coverage availability across the cannabis business sectors. The second day of the hearing focused on structural obstacles inhibiting insurers from offering coverage; insurance gaps and how insurance regulators can support growth of the admitted market, including presentations on balancing actual and perceived risks in the cannabis space; obstacles to insurers offering coverage in the cannabis-related business space; insurance coverage challenges for cannabis-related businesses; and emerging trends and how insurance regulators can support growth of the cannabis insurance market.

Mr. Allen said the Working Group plans to use the information gained over this two-day hearing to update its white paper, *Understanding the Market for Cannabis Insurance,* through the addition of an appendix. Drafting sessions on the white paper appendix will begin in August. The Working Group also plans to leverage the feedback gained from the hearing to discuss during its next meeting how state insurance regulators can better collaborate with each other and other regulatory agencies.

f. Catastrophe Insurance (C) Working Group

Commissioner Chaney said the Catastrophe Insurance (C) Working Group received a referral from the Climate and Resiliency (EX) Task Force asking it to update the *Catastrophe Computer Modeling Handbook* (Handbook) by: 1) determining how state insurance regulators are currently using the Handbook; 2) coordinating with the Catastrophe Risk (E) Subgroup to understand the materials it is developing regarding catastrophe models; 3) updating questions in Section VII of the Handbook to include wildfire; 4) considering the addition of questions specific to additional perils used in catastrophe models including flood; and 5) exploring which catastrophe modelers have begun including climate data in their models. He said the Working Group formed a drafting group to work on these referral items. Commissioner Chaney said the Working Group recently heard from Mississippi regarding the Mississippi Windstorm Underwriting Association (MWUA) FORTIFIED Roof upgrade program that was implemented in Mississippi and began discussions regarding the American Property Casualty Insurance Association's (APCIA's) Catastrophe Actions Toolkit.

Commissioner Chaney also noted that the newly formed NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group held its first meeting to discuss its charges related to prioritizing and recording interactions with the NAIC's

FEMA colleagues (Attachment One). The group heard a summary of recent engagements with FEMA and will be putting materials on the NAIC's Catastrophe Resource Center.

g. Pet Insurance (C) Working Group

Mr. Beatty said the Pet Insurance (C) Working Group adopted the Pet Insurance Model Act during its Aug. 4 meeting, but subsequently state insurance regulators and NAIC legal staff found there were some unclear issues that remained in the model. Mr. Beatty said he believes a few of these are not substantive, but a couple should be discussed. He said he would recommend the Committee vote to keep the model open so that the Working Group could meet to receive input from all parties before adopting the model.

Director Deiter made a motion, seconded by Commissioner Birrane, to adopt an extension to the Fall National Meeting for revisions to the proposed Pet Insurance Model Act. The motion passed unanimously. Commissioner Schmidt said the Property and Casualty Insurance (C) Committee will likely meet in the near future so that it can consider the model and perhaps refer it to the full NAIC membership at the Fall National Meeting.

h. Terrorism Insurance Implementation (C) Working Group

Commissioner Schmidt said the Terrorism Insurance Implementation (C) Working Group has not met since the Spring National Meeting, but state insurance regulators decided to pause the State Supplement portion of the state regulator terrorism risk insurance data call for fall. The Working Group plans to meet soon to discuss workers' compensation and other data received in the data call earlier this year.

i. Transparency and Readability of Consumer Information (C) Working Group

Ms. Hatchette said the Transparency and Readability of Consumer Information (C) Working Group has been working on several items for a best practices document on disclosures for premium increases. The Working Group formed three drafting groups to work on three different documents: 1) the Thresholds and Communications Standards Drafting Group; 2) the Rate Checklist Drafting Group; and 3) the Consumer Education Drafting Group.

Ms. Hatchette said the Thresholds and Communications Standards Drafting Group discussed and determined several requirements for disclosures to be sent to consumers regarding premium increases. At this time, this document will be a part of the best practices document and is not required, as states will have to make these requests of insurers if they want to use the disclosures. The Drafting Group determined the following items would be necessary for a disclosure: 1) a 10% threshold (any rate change >= 10% on renewal) will trigger a notice; 2) the notice must be sent at least 30 days prior to renewal; 3) the notice must include the new premium vs. the old premium; 4) items affecting the premium increase should be listed by dollar amount; 5) the top reasons for premium increase should be listed; 6) these reasons should account for 80% of the premium increase; and 7) the top five reasons for the premium increase should be listed.

Ms. Hatchette said the Rate Checklist Drafting Group found that many states do not have a rate checklist in place. Kansas and Connecticut both have them in place and have found them to be extremely helpful. The use of a checklist is not required but will be included in the best practices document. This document is to be filled out by the insurer during the rate filing process. The Drafting Group is using the rate checklist developed by Kansas in addition to adding two questions about rate modeling, as there are times where insurers do not mention this, and asking the questions will bring awareness to the insurer.

Ms. Hatchette said the Consumer Education Drafting Group has formed three smaller drafting groups to draft specific topics, such as underwriting and rating, factors affecting premium increase, and discounts for auto insurance. The goals of the consumer education document are to: 1) provide consumers with a basic understanding of rate making so they can better understand a disclosure, especially if the consumer receives a premium increase; 2) inform consumers of things they can do to mitigate premium increases; 3) provide information that can be readily available in various forms for inquiries to departments of insurance (DOIs) from other entities such as legislators and media; and 4) reduce the number of consumer calls to the DOIs regarding understanding of why their rates increased. Once this work is complete and a document is in place, the NAIC Communications department has agreed to put together infographics, social media pieces, consumer alerts, etc. that will be available to the DOIs to use. The Working Group will also work with the NAIC Communications department to see what types of consumer testing would be available to determine the effectiveness of the disclosure document.

Commissioner Mais made a motion, seconded by Commissioner Donelon, to adopt the following task force and working group reports: Casualty Actuarial and Statistical (C) Task Force; Surplus Lines (C) Task Force; Title Insurance (C) Task Force; Workers' Compensation (C) Task Force; Cannabis Insurance (C) Working Group (Attachment Two); Catastrophe Insurance (C) Working Group (Attachment Three); Pet Insurance (C) Working Group (Attachment Four); Terrorism Insurance

Implementation (C) Working Group; and Transparency and Readability of Consumer Information (C) Working Group (Attachment Five). The motion passed unanimously.

3. <u>Adopted Revisions to the *Title Insurance Consumer Shopping Tool Template*</u>

Ms. Rafeld said the Title Insurance (C) Task Force formed a drafting group to include questions and answers about title insurance-related fraud topics within the *Title Insurance Consumer Shopping Tool Template*. The drafting group included information about wire fraud schemes and steps consumers can take to avoid fraud. The drafting group consulted with consumer groups to assist with the language. The drafting group also made changes to modernize the language. The Task Force adopted the revisions on July 13. Commissioner Dodrill pointed out the table of contents would need to be revised.

Commissioner Dodrill made a motion, seconded by Commissioner Chaney, to adopt the revisions to the *Title Insurance Consumer Shopping Tool Template* (Attachment Six). The motion passed unanimously.

4. <u>Heard Presentations on How to Close the Insurance Protection Gap</u>

John Huff (Association of Bermuda Insurers and Reinsurers—ABIR) said the Bermuda market responded in the 1990s to Florida hurricanes with a strong reinsurance market. The Bermuda market works to balance noncorrelated risks such as Kansas tornado risks with European flood risks. The Bermuda market provides more than 50% of the capacity for U.S. mortgage reinsurance, helping to facilitate home ownership for Americans. Bermuda reinsurers make up 36% of the global P/C reinsurance market. In the Texas 2021 winter storm, the Bermuda reinsurance market covered 20% of that loss, resulting in $2.7 billion. Mr. Huff noted that capital capacity is what is needed to close the protection gap.

Mr. Huff said the Centre for Risk Studies at Cambridge Judge Business School recently released a report titled *Optimizing Disaster Recovery: The Role of Insurance Capital Improving Economic Resilience*. This report noted that the annual average loss from natural disasters worldwide jumped from $27 billion in the 1970s to nearly $200 billion in the 2010s. The report analyzed more than 100 natural catastrophe case studies from around the world and found that countries with higher insurance penetration were able to recover far more quickly than communities with lower insurance penetration. Mr. Huff noted that the report found for each percentage point increase in insurance penetration, a country's economic recovery time was reduced by almost 12 months.

Mr. Huff also said the recent California report *Protecting Communities, Preserving Nature and Building Resiliency: How First-of-its Kind Climate Insurance Will Help Combat the Costs of Wildfires, Extreme Heat, and Floods* provides guidance on how states can handle the protection gap.

Mr. Huff noted there are advantages of leveraging the international reinsurance capacity, including ensuring consumer coverage remains affordable and accessible, diversifying risk pools, exporting risks away from a jurisdiction, providing private market solutions, protecting communities and taxpayers, and helping to close the protection gap.

Mr. Huff said the ABIR is involved with the Insurance Development Forum (IDF), which is a public-private partnership with the World Bank and United Nations (UN). Ekhosuehi Iyahen (IDF) said the IDF's objective is to extend insurance and risk management capabilities to build resilience and protection for individuals and communities. She noted the IDF has five working groups focused on: 1) risk modeling; 2) improving the quality of risk information; 3) sovereign and humanitarian efforts; 4) inclusive insurance; and 5) investments. She said governments sit on the steering committee for the IDF.

Ms. Iyahen noted the size of the global insurance protection gaps is $162 billion. The percentage of natural disaster losses in developing countries that were insured is around 1%. She said economic shocks are absorbed by individuals and governments, and funds are diverted away from health and education. Ms. Iyahen said developed countries also have a protection gap, and it is often those most in need of protection that are unprotected. She said communities often are not properly prepared for disasters. She noted that international organizations are taking this problem seriously in how to proactively address the protection gap. She said there is need for greater investment in risk awareness and understanding, risk reduction, and disaster response activities. She also noted there is a growing appreciation among international bodies of the role of finance and insurance.

Ms. Iyahen said innovative services and products to help governments understand natural hazard risks can be used to design systems to protect citizens and infrastructure. She noted there has been an increase in parametric products used by governments. She said regulators can support the broader conversation of how to build effective risk management and protection systems for the future by engaging with the insurance industry. She said regulators can help to drive the conversation by keeping pace of innovation and new products and fostering collaboration and coalitions with knowledge sharing. Ms. Iyahen also said the IDF has issued a number of reports that explore these critical issues.

Commissioner Schmidt asked about the open-source modeling workstream at the IDF. Ms. Iyahen said the modeling work is critical because it creates a foundation for the understanding of risk. She said there is a need for communities to have more information to support decision-making. She said the IDF works with governments and vulnerable communities in better understanding risk through modeling.

Commissioner Schmidt asked about the growing protection gap in the U.S. as it relates to flood and earthquake risks being optional endorsements to coverage. Mr. Huff said flood is the top peril in all states. He said there is a reputational risk for the insurance industry due to some risks being optional endorsements and consumers being uninsured due to a lack of education about those risks. He said regulators need to have honest dialogue with the insurance industry and perhaps consider an all-perils approach to insuring risk. Mr. Huff noted that earthquake is an issue throughout the U.S. as well and that the Missouri Department of Commerce and Insurance is planning an earthquake summit in St. Louis, MO, to be held in September. He said the industry must do better job of making sure these risks are covered. He stressed that protection gaps exist even in the U.S., which is the most developed insurance market in the world.

Lieutenant Governor Roach asked whether there has been conversation about the cost and availability of insurance products leading to the protection gap. Ms. Iyahen said for developing communities, only 1% to 3% of the population is insured. She said where insurance is not part of the conversation, the IDF is working with partnerships to discuss the cost coverage, new products like parametric products, and how risks can be measured. She said it is critical that jurisdictions share knowledge with each other.

5. Heard a Report on the Cybersecurity Insurance Market

Aaron Brandenburg (NAIC) provided an overview of the data received in the Cybersecurity and Identity Theft Insurance Coverage Supplement. He said the data does not include the alien surplus line data because that data comes into the NAIC's International Insurance Department in a separate filing. He noted that the alien surplus lines data would be included in a later report, likely to be released during a cyberinsurance session at the September Insurance Summit.

Mr. Brandenburg reported $2.74 billion was reported in combined direct written premium in stand-alone and package policies for 2020, which is a 22% increase over 2019. This follows increases of 11% and 7% the two years before that. He also noted there were more than 4 million cyber policies in force in 2020, an increase of 21% over the prior year. About 35%–37% of claims have been closed with payment over the past three years.

Mr. Brandenburg reported the largest writers in 2020 were Chubb, AXA, and AIG. Loss ratios varied across companies. The top five insurers made up more than 50% of the market, and the top 20 insurers wrote 84% of total premium. He said 2020 saw particularly high losses compared to prior years, rising from 65% in aggregate from below 50% in prior years.

Mr. Brandenburg noted that there has been a great increase in ransomware attacks across the last year. He said insurers have taken action to address changes to the market, including in the most extreme cases some insurers pulling out of the cyber market. Insurers have responded to large ransomware events by adding coinsurance and sublimits on their cyber policies, especially for businesses that do not have the best cyber hygiene. Other insurers have refreshed policy language to address the scope of coverage, exclusions, and sub-limits, as well as to identify areas where there is greater exposure.

Mr. Brandenburg said an Aon report called on the NAIC to create separate statutory categories for cyberinsurance to better illustrate how the industry is handling cyber risk as both premiums and claims continue to grow. The report suggests adding a separate line of business including on Schedule P, splitting cyber liability third-party commercial, cyber damage for first-party commercial, and cyber for personal lines. He noted other reports such as: 1) the Verizon *Data Breach Investigations Report*, which provides information on data breaches and incident classification patterns by industry; 2) an AM Best report that provides an analysis of the data contained within the Annual Statement Supplement; 3) the *Betterley Report*, which includes insights from 20 insurers and covers exclusions found in policies and the increasing costs of cyberinsurance; 4) a Gallagher report that provides information about the hardening cyberinsurance market and market capacity; 5) a U.S. Government Accountability Office (GAO) report that summarizes take-up rates coverage limits; and 5) the *Coalition Cyber Insurance Claims Report*, which covers different types of incidents that make up cyberinsurance claims.

Director Farmer asked if there is a risk to the cyberinsurance market, similar to what happened in the long-term care (LTC) market where insurers underpriced the risk. Mr. Brandenburg said NAIC financial staff have been working with regulators in looking at solvency issues.

6. Heard a Report on the Private Flood Insurance Market

Mr. Brandenburg said the Private Flood Insurance Supplement was new in 2021. Previously, through 2019, commercial and residential private flood data were combined on line 2.5 of the state page. State insurance regulators embarked on a data call in 2020 to collect 2018 and 2019 data and break commercial from residential. The data call also broke out stand-alone from endorsement and first dollar from excess. It included new data elements such as number of policies, claims opened, and claims closed. Mr. Brandenburg said the new Private Flood Insurance Supplement mirrors what was collected through the data call.

Mr. Brandenburg said there may be data errors within the Supplement as some states have identified insurers that should have but did not file the Supplement. He reported that the number of private commercial flood policies grew in 2020, but the number of residential policies fell. He said premiums rose greatly in commercial policies but fell slightly in residential. The total amount of direct written premium was $700 million in 2020.

Mr. Brandenburg said the NAIC and state insurance regulators have been working closely with FEMA in recent years in building the flood insurance market—whether that is the National Flood Insurance Program (NFIP) or the private market—in order to make sure individuals are better protected from flood risks. He said the number of companies writing residential private flood insurance grew over the last few years, from 55 in 2018 to 58 in 2019 to 81 in 2020. Premium fell slightly in 2020; 82% of the premium was in stand-alone rather than endorsements. He noted that residential private flood losses rose from $28 million in 2019 to $50 million in 2020. The residential private flood average premium fell in stand-alone products but rose in endorsements. He noted that loss ratios were highest in Alabama, Massachusetts, Michigan, Tennessee, and Utah for residential private flood in 2020.

Mr. Brandenburg said 15 insurance groups wrote at least $1 million in residential premium in 2020, with the top 15 insurers totaling $160 million in premium, which was over 85% of the market. Stand-alone first dollar policies had the most premium, with stand-alone excess next. Mr. Brandenburg said the results would be put on the NAIC website once additional data is received from insurers.

Mr. Birnbaum asked whether lender-placed flood insurance had been analyzed by the NAIC yet, and Mr. Brandenburg responded that it had not.

7. Discussed the Special (EX) Committee on Race and Insurance

Commissioner Schmidt said the Special (EX) Committee on Race and Insurance has adopted new charges and that the (P/C) issues will remain with Workstream Three of the Special Committee. She noted that the Special Committee met Aug. 15, where several interesting presentations will be leveraged by Workstream Three as it begins to create a work plan.

8. Discussed Future Conference Call

Commissioner Schmidt noted that Robert Hunter (Consumer Federation of America—CFA) reached out recently with a request to speak to the Committee about auto insurer premium refunds related to reduced driving throughout the COVID-19 pandemic. Due to the late nature of the request and the Committee having a full agenda, Commissioner Schmidt said the Committee may wish to take up the issues during a future meeting. She noted that regulatory actuaries have had many discussions regarding rate filings with COVID-19 adjustments. Mr. Birnbaum reiterated the desire to have a discussion about auto insurance refunds, and he also noted that he spoke before the NAIC/Consumer Liaison Committee on the impact the COVID-19 pandemic had on credit scores and before the Special (EX) Committee on Race and Insurance about how to test for bias in insurance models.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

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