

Draft: 7/26/22

Cybersecurity (H) Working Group
Virtual Meeting
July 14, 2022

The Cybersecurity (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met July 14, 2022. The following Working Group members participated: Cynthia Amann, Co-Chair (MO); Wendy Erdly, Co-Chair (NY); C.J. Metcalf, Co-Vice Chair, represented by Erica Weyhenmeyer (IL); Michael Peterson, Co-Vice Chair (VA); Chris Erwin (AR); Damon Diederich (CA); Michael Shanahan (CT); Paula Shamburger (GA); Lance Hirano (HI); Shane Mead (KS); Van Dorsey (MD); Jake Martin (MI); Colton Schulz and Chris Aufenthie (ND); David Bettencourt (NH); Barbara D. Richardson (NV); Don Layson (OH); Rosemary Raszka (VT); John Haworth (WA); and Nathan Houdek (WI). Also participating was: Matt Gendron (RI).

1. Heard Opening Remarks and Updates

Ms. Erdly opened the meeting by acknowledging that the Working Group met May 3 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings, to talk through its updated work plan receiving guidance from the NAIC along the way.

2. Received an Update on its Work Plan

Ms. Erdly and Mr. Peterson then lead a discussion about the Working Group's updated work plan.

Mr. Peterson said the rise of ransomware attacks and the shift to remote work, which increased attack surfaces, has heightened the need to understand insurance industry posture in the future. However, Mr. Peterson indicated that the updated work plan first directs state insurance regulators to look inward, with a survey of regulator policies and procedures being the first substantive item the Working Group will take on. Performing a state insurance regulator survey first, will allow regulators to compare notes and later work with industry on a unified and predictable response to cybersecurity issues.

The plan to complete a state insurance regulator survey first represents a shift from the former plan, which previously included an industry-focused survey. A state insurance regulator survey will also allow the Working Group to prioritize its charges. For instance, the Working Group has a charge to develop a cybersecurity response plan that could benefit from the survey's insights. State insurance regulators have started work on this effort with a volunteer group meeting earlier this year to start the drafting process. The Working Group hopes to have the survey out in August, with responses back this year to allow the Working Group to advance on work based on the responses received.

Ms. Erdly noted that the rest of the work plan includes revisiting the cybersecurity response plan after the Working Group completes the state insurance regulator survey. This is a broad monitoring effort, where state insurance regulators will receive updates on cybersecurity as it is discussed within the NAIC, as well as at federal and international levels, as appropriate, and a training effort, which again will benefit from the completion of the regulator survey work. The NAIC is planning on three cybersecurity themed sessions at the NAIC Insurance Summit, but there is likely an opportunity for the Working Group to provide beneficial input to the NAIC on topics that may be relevant to be covered either at the Insurance Summit or in other settings (e.g., webinars).

3. Received an Update on Implementation of Model #668

The Working Group next received an update from Holly Weatherford (NAIC) on the state effort to adopt the *Insurance Data Security Model Law* (#668).

Ms. Weatherford said state insurance regulators are keenly aware of the potentially devastating effects of cyberattacks and therefore recognize the importance of cybersecurity risk management. Model #668 has now been adopted by 21 states, representing over 80% of the market by gross written premiums. Ms. Weatherford offered to support states considering adoption, as they have learned from the NAIC's experience in supporting other states in passing the law.

Simit Pandya (Medical Professional Liability Association—MPL Association) asked if Ms. Weatherford knows of further states that might be considering adoption of Model #668. Mr. Gendron noted that Rhode Island would be considering passage of the legislation at its next legislative session. Beyond that, Ms. Weatherford indicated that there are likely additional states but none that can be publicly disclosed at this time.

4. Receive an Update on Federal Activity Related to Cybersecurity

The Working Group next received an update from Brooke Stringer (NAIC) on the federal activity related to cybersecurity. Ms. Stringer said the Financial and Banking Information Infrastructure Committee (FBII) has been looking to improve communication and enhance resilience of the financial sector. The current focus has been led by a member, the U.S. Department of the Treasury (Treasury Department), to understand concentration risks. Specifically, the Treasury Department has been studying the risks provided by cloud service providers. The Treasury Department will be publishing a report that summarizes what its research has found focusing on the impact of cloud service providers to the operational resilience of the insurance industry. Legislation wise, the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) was signed into law, requiring that owners and operators of critical infrastructure report cybersecurity incidents to the U.S. Department of Homeland Security (DHS) and the Cybersecurity and Infrastructure Security Agency (CISA). Lastly, Ms. Stringer also mentioned that the current instance of the National Defense Authorization Act (NDAA) includes language that would require insurers to report on cyber claims data, which is language that has caused concern among insurance trade associations. Miguel Romero (NAIC) asked Ms. Stringer if there was any discussion of federal preemption of state laws on cybersecurity, which Ms. Stringer said does not seem likely in the immediate future given the changes in administration since that topic was last discussed.

5. Receive an Update on the NAIC's Cybersecurity Tabletop Exercises

The Working Group next received an update from Frosty Mohn (NAIC) on the NAIC's Cybersecurity Tabletop project. Mr. Mohn noted that this project was born out of the Treasury Department's Hamilton series, which was a series of banking-focused tabletop exercises. Mr. Romero noted that at these exercises, insurers, state insurance regulators, and law enforcement agencies have a discussion on how each would react as a simulated cybersecurity event unfolds. In November, the NAIC will host a virtual session with Maryland regulators. Mr. Mohn noted that past exercises have led to the development of best practices for attendees to consider, such as a hard card generated from the last tabletop exercise offering guidance on how insurers and state insurance regulators could respond in the event of a cybersecurity event. Mr. Mohn noted that the NAIC will travel to Ohio for a cybersecurity session in May 2023; the NAIC has had discussions with North Dakota and South Dakota about a joint session as well.

6. Receive an Update on State Insurance Regulator Cybersecurity Tools

Mr. Romero discussed the attached Summary of Cybersecurity Tools drafted by NAIC staff as a resource for state insurance regulators. The memo describes the various tools that state insurance regulators have available, and it is intended to be a reference guide for future regulators that follow the Working Group's work. Given the varying backgrounds of state insurance regulators talking about cybersecurity, this memo can help regulators quickly understand the tools available across functions; i.e., financial and market. Ms. Erdly agreed to expose the document for a public comment period ending Aug. 16. The date was announced via e-mail after the call.

Having no further business, the Cybersecurity (H) Working Group adjourned.

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