

Welcome to the Title Insurance (C) Task Force Meeting

- All audio will be muted upon entry
- Prior to speaking, unmute both **Webex** & cell phone
- If joined by phone, press*6 to mute/unmute your line
- Use “Chat” for questions, comments or assistance
- Tech Help: MeetingTechHelp@naic.org or 866-874-4905
- The meeting is being recorded



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Date: 5/10/21

*Virtual Meeting
(in lieu of meeting at the 2021 Spring National Meeting)*

TITLE INSURANCE (C) TASK FORCE

Tuesday, May 11, 2021

12:00 – 1:30 p.m. ET / 11:00 a.m. – 12:30 p.m. CT / 10:00 a.m. – 11:30 a.m. MT / 9:00 – 10:30 a.m. PT

ROLL CALL

Judith L. French, Chair	Ohio	Troy Downing	Montana
David Altmaier, Vice Chair	Florida	Bruce R. Ramge	Nebraska
Lori K. Wing-Heier	Alaska	Barbara D. Richardson	Nevada
Peni Itula Sapini Teo	American Samoa	Marlene Caride	New Jersey
Karima M Woods	District of Columbia	Russell Toal	New Mexico
Colin M. Hayashida	Hawaii	Mike Causey	North Carolina
Vicki Schmidt	Kansas	Jessica K. Altman	Pennsylvania
James J. Donelon	Louisiana	Raymond G. Farmer	South Carolina
Kathleen A. Birrane	Maryland	Larry D. Deiter	South Dakota
Grace Arnold	Minnesota	Michael S. Pieciak	Vermont
Chlora Lindley-Myers	Missouri	Scott A. White	Virginia

NAIC Support Staff: Anne Obersteadt/Aaron Brandenburg

AGENDA

1. Consider Adoption of its Nov. 24, 2020 and Mar. 16, 2021 Minutes
—*Director Judith L. French (OH)* Attachment 1-2
2. Hear an Update on Revisions to the *Title Insurance Consumer Shopping Tool Template* — *Director Judith L. French (OH)*
3. Hear a Presentation on the Latest *Best’s Market Segment Report on the U.S. Title Insurance Market* — *Kourtnie Beckwith and Fred Eslami (AM Best)* Attachment 3
4. Hear a Presentation on the Financial Performance of Title Insurers in 2020
—*Birny Birnbaum (Center for Economic Justice—CEJ)*
5. Discuss Any Other Matters Brought Before the Task Force
— *Director Judith L. French (OH)*

W:\National Meetings\2021\Spring\Agenda\TitleTF_5.11.21.docx

Consider Adoption of its Nov. 24, 2020 and Mar. 16, 2021 Meeting Minutes

—*Judith L. French (OH)*

Attachments 1-2



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS

Draft Pending Adoption

Draft: 12/1/20

Title Insurance (C) Task Force
E-Vote (*in lieu of meeting at the Fall National Meeting*)
November 24, 2020

The Title Insurance (C) Task Force conducted an e-vote that concluded Nov. 24, 2020. The following Task Force members participated: Michael S. Pieciak, Chair, and Kevin Gaffney (VT); James J. Donelon, Vice Chair, and Warren Byrd (LA); Michael Conway represented by Damion Hughes and Dennis Newman (CO); David Altmaier represented by Anoush Brangaccio (FL); Colin M. Hayashida represented by Paul Yuen (HI); Vicki Schmidt represented by Heather Droge (KS); Kathleen A. Birrane (MD); Grace Arnold represented by Paul Hanson (MN); Chlora Lindley-Myers represented by Carrie Couch (MO); Mike Causey represented by Fred Fuller (NC); Bruce Ramge (NE); Marlene Caride (NJ); Barbara D. Richardson represented by Erin Summers (NV); Tynesia Dorsey represented by Michelle Brugh Rafeld (OH); Jessica K. Altman represented by Mark Lersch and Michael McKenney (PA); and Scott White (VA).

1. Adopted its 2019 Fall National Meeting and 2020 Summer National Meeting Minutes.

The Task Force conducted an e-vote to consider adoption of its 2019 Fall National Meeting and 2020 Summer National Meeting minutes.

A majority of the members voted in favor of adopting the Task Force's Dec. 8, 2019 (*see NAIC Proceedings – Fall 2019, Title Insurance (C) Task Force*) and Aug. 5, 2020 (*see NAIC Proceedings – Summer 2020, Title Insurance (C) Task Force*) minutes. The motion passed.

2. Adopted its 2021 Proposed Charges

The Task Force met Oct. 21 (Attachment One) to adopt its 2021 proposed charges (Attachment One-A). The proposed charges include adding a charge to its existing charges to explore issues and solutions related to the COVID-19 pandemic. The proposed charges also include elevating the existing charge to revise the *Title Insurance Consumer Shopping Tool* to include fraud topics, such as closing protection letters and wire fraud, to an essential work item for 2021.

Having no further business, the Title Insurance (C) Task Force adjourned.

W:\National Meetings\2020\Fall\TF\Title\11.24-TitleTF.docx

Draft Pending Adoption

Draft: 4/1/21

Title Insurance (C) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Spring National Meeting*)
March 16, 2021

The Title Insurance (C) Task Force met March 16, 2021. The following Task Force members participated: Judith L. French, Chair, represented by Michelle Brugh Rafeld (OH); David Altmaier, Vice Chair, represented by Jeffrey Joseph (FL); Peni Itula Sapini Teo represented by Elizabeth Perri (AS); Karima M. Woods represented by Angela King (DC); Colin M. Hayashida represented by Martha Im and Paul Yuen (HI); Vicki Schmidt represented by Heather Droge (KS); James J. Donelon represented by Warren Byrd (LA); Kathleen A. Birrane represented by David Zitterbart (MD); Chlora Lindley-Myers represented by Carrie Couch (MO); Troy Downing and Tyler Spady (MT); Mike Causey represented by Timothy Johnson (NC); Bruce R. Range (NE); Marlene Caride represented by Randall Currier (NJ); Russell Toal (NM); Jessica K. Altman represented by Michael McKenney (PA); Raymond G. Farmer represented by William Starks (SC); Larry D. Deiter represented by Maggie Dell (SD); Scott A. White represented by Mike Beavers (VA); and Michael S. Pieciak represented by Kevin Gaffney (VT). Also participating was: Adam Martin (UT).

1. Adopted its Feb. 23 Minutes

The Task Force met Feb. 23 and took the following action: 1) adopted its Oct. 21, 2020, minutes; 2) discussed its 2021 work plan; and 3) heard a presentation on effects of the COVID-19 pandemic on the title insurance industry.

Mr. Byrd made a motion, seconded by Superintendent Toal, to adopt the Task Force's Feb. 23 minutes (Attachment One). The motion passed unanimously.

2. Discussed its Revised 2021 Work Plan

Ms. Rafeld stated that the revised list of work plan ideas for 2021 is as follows:

1. Explore the effects of the COVID-19 pandemic on the title insurance industry through presentations.
 - a. Presentation, Part 1 from the American Land Title Association (ALTA) on the Feb. 23 call.
 - b. Presentation, Part 2 from ALTA on the March 16 call.
 - c. Possible presentations from other interested parties.
 - d. Produce a brief summarizing the findings.
2. Revise the *Title Insurance Consumer Shopping Tool Template*.
 - a. Discuss comment letters on revision suggestions during the March 16 call.
 - b. Member drafting sessions begin March 23.
 - c. Drafting members: Ms. Rafeld; Mr. Joseph and Anoush Brangaccio (FL); Mr. Byrd; Marianne Baker (TX); Sharon Richetti (MT); Mr. Johnson; Erica Bailey (MD); Dorcas Voyles (FL DFS); Marjorie Thompson (MO); and Mr. Beavers.
3. Monitor issues and developments occurring in the title insurance industry, including profitability and claims settlement.
 - a. Presentation by AM Best on the latest Best's Market Segment Report on the U.S. Title Insurance Market on TBD.
 - b. Presentation by Demotech on their recent defalcation study on TBD.
 - c. Presentation by consumer representatives on consumer protection issues they are hearing on TBD.
 - d. Potential presentation by the Federal Bureau of Investigation (FBI) on cybercrime and business email compromises.
 - e. Explore a presentation regarding criminal investigations of wire fraud.
4. Assist the Antifraud (D) Task Force in combating fraud through joint calls and meetings.
 - a. A request was sent Jan. 28 to Antifraud (D) Task Force members asking them to share reports of title insurance fraud and/or mortgage fraud trends in their states. Responses will be used to develop sharing opportunities through future calls and meetings.

Draft Pending Adoption

5. Will consult with the Consumer Financial Protection Bureau (CFPB) through regulator-only and/or open calls with the CFPB.
 - a. Presentation from the CFPB on recent changes and priorities.
 - b. Determine if joint regulator-only calls are needed.

6. Determine the role of the Task Force in exploring race and insurance implications in the title insurance space.
 - a. Confer with the Special (EX) Committee on Race and Insurance and the Property Casualty Insurance (C) Committee.

Ms. Rafeld stated that the first work plan item remains to explore the impact of the COVID-19 pandemic on the title insurance industry through presentations, such as the one ALTA is finishing during the current meeting. Based on the Task Force's mutual agreement on its Feb. 23 call, the work plan now also includes potential presentations from other interested parties, such as consumer representatives, title underwriters, and state insurance regulators. This includes a suggestion to take a deeper look into how consumers responded to virtual closings.

The second work plan item remains to update the *Title Insurance Consumer Shopping Tool Template* through member drafting sessions beginning March 23. Nine states have signed on to participate in the drafting sessions. Thus far, two states have submitted suggested revisions. Ms. Rafeld also discussed Birny Birnbaum's (Center for Economic Justice) suggestion to conduct testing on the *Title Insurance Consumer Shopping Tool Template*. She indicated that while the suggestion is not without merit, the specific charge of the Task Force is to make updates to include information regarding fraud. She suggested the Task Force discuss any additionally proposed revisions when it discusses its 2022 charges.

The third work plan item now includes the addition of "monitor issues and developments occurring in the title insurance industry, including profitability and claims settlement." This includes presentations by AM Best on its latest Best's Market Segment Report, Demotech on its recent defalcation study, and consumer representatives on any related issues. Additionally, as recommended by Virginia, the Task Force will reach out to the FBI to hear about cybercrime and business email compromises, which is one of Virginia's biggest issues. Other presentations on criminal investigations of wire fraud may be contemplated too.

The fourth work plan item is to assist the Antifraud (D) Task Force in combating fraud through future calls and meetings based on responses received from Antifraud (D) Task Force members on trends in their states.

Under the fifth work plan item, the Task Force will still consult with the CFPB to receive an update. Based upon the outcome of discussions with the Antifraud (D) Task Force, the Title Insurance (C) Task Force may hold regulator-only calls with the CFPB.

The sixth work plan item relates to the suggestion by some Task Force members to look into race and insurance implications in the title insurance space. The Special (EX) Committee on Race and Insurance has several workstreams. The third workstream is charged to examine and determine which practices or barriers exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups in the property/casualty (P/C) line of business. This workstream is currently determining if and what tasks it should delegate to specific subject matter expert (SME) groups. The workstream plans to take up the Task Force's request for clarification on what role it should play in this area on a call in the near future. An update will be provided once a decision has been communicated by the Committee.

Mr. Byrd asked if the role of exploring race and insurance would focus on more minorities working in the field of title insurance or on the sale of a policy in areas that may be populated by minorities. Ms. Rafeld stated that it is her general impression that the Task Force members want to look into all of the issues in this space.

Steve Gottheim (ALTA) said ALTA is finalizing new base policy forms, and he would be happy to present on them during a future Task Force meeting. Ms. Rafeld stated that she would add the proposed presentation to the work plan for 2021.

3. Heard Part Two of a Presentation on the Effects of the COVID-19 Pandemic on the Title Insurance Industry

Mr. Gottheim, Mary Payne Thomas (Stewart Title Guaranty Company), and Nick Hacker (Guaranty & Title Co.) continued their presentation that began during the Feb. 23 meeting. The early days of the pandemic brought much uncertainty. Most companies experienced a 40% drop in volume. County closures created barriers to conducting searches and closing deals. This was followed by a rebound in volume, driven by mortgage refinances. The industry met these challenges and worked to ensure that closings occurred safely and efficiently. Costs increased due to personal protection equipment (PPE) purchases and digital

Draft Pending Adoption

closings, which rose by over 500%. Flexible contingency plans were put in place to address staffing challenges presented by infection.

2020 was an unusual year with staggering levels of volume. The outlook for 2021 is also very strong if interest rates remain low. Existing home sales increased to \$5.65 million in 2020, up from \$5.34 million in 2019. They are anticipated to increase again to \$6.04 million in 2021 before dropping to \$5.7 million in 2022. New home sales increased to \$811,000 in 2020, up from \$682,000 in 2019. They are anticipated to increase again to \$860,000 in 2021 before dropping to \$851,000 in 2022. New purchase mortgages and refinances trend accordingly with existing and new home sales. The federal government is staying foreclosures and evictions through June, and states have similar limits in place. Once the limits are no longer in place, the market will face distress. Black Knight reported that 2.7 million Americans have active forbearance plans, with 308,000 already in modifications. However, only 1% of commercial sales are distressed, which is a significant difference from 2010, when about 20% were distressed. It should be noted that in nonjudicial foreclosure states, title companies are often listed as the trustee in a consumer's mortgage. The current low foreclosure rate brings additional reserving uncertainty. The mix of claims is changing with more people at home. Neighbor disputes and issues related to renovations are more prevalent. Delayed mail delivery and service is also affecting the receipt of policies and claims notifications.

State insurance regulators have helped ease the strain of the pandemic by relaxing in-person audit or examination requirements. This includes allowing more audits to be conducted electronically. State insurance regulators have also waived notary and original signature requirements on filed forms. Additionally, education and testing for licensing was allowed to be done virtually.

The title insurance industry also dedicated time, effort and money to strengthening communities through charitable acts like donations of PPE, food and other services. In October 2020, ALTA launched the ALTA Good Deeds Foundation to bolster charitable efforts of its members in its communities. The Foundation's aid goes to help those adversely affected by national emergencies, such as the COVID-19 pandemic, or with housing needs.

Ms. Rafeld stated that the presentation was very eye opening on the level of creativity the industry was forced to use as soon as the pandemic hit.

Mr. Byrd asked if the additional costs incurred due to the pandemic were passed on to the participants in the closing. Mr. Hacker said the costs were not passed on, and the pricing has remained the same for over a year. Ms. Thomas said costs in the early days of the pandemic included innovative things like partnering with local distilleries for hand sanitizer because PPE was not readily available during this time.

Mr. Martin asked if there is the potential for loans and foreclosures to cause significant fraud issues similar to what happened during the Great Recession. Mr. Hacker said it is a distinct worry because the foreclosures that came to fruition during the Great Recession were the result of fraud that happened during the run up to that recession. Additionally, a lot of fraud claims during the Great Recession related to issues with the mortgage modification process. There is a lot of work going on to find ways to speed up the modification process, including with the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The faster a consumer is transitioned from initial contact into active modification, the higher the success.

Ms. Thomas said there is the expectation of increased claims from fraudulent foreclosures. The industry must deal with these new issues while also still managing ongoing fraud issues, such as wire fraud, that has been sustained due to the increasing savvy of fraudsters. State insurance regulators should be aware of the potential for increased consumer complaints, since many complaints are centered around how a claim has been handled and how claims have increased.

Mr. Byrd asked for clarification on the process that occurs between a foreclosure and a title insurance issue. Ms. Thomas said there are many different ways, including intervening loans that might result in a lender claim during the foreclosure process, someone filing a claim to avoid foreclosure, and simply being included as a party because the company was involved in the policy issued and therefore listed as the trustee on the deed of trust. Mr. Gottheim said there are also circumstances beyond the standard types of claims just mentioned. One common way closure can add to the claims experience is an issue not being discovered until someone runs the title for foreclosure for the lenders. Mr. Hacker said there can also be legal description disputes. His company had a recent claim in which the mortgage encumbered a small piece of land that was not owned by the property owner. This resulted in the purchase of an additional four feet of the neighbor's land during the foreclosure process.

Mr. Byrd said Louisiana is introducing legislation to remove the reference to "on-site audit" in its law so audits may also be done electronically.

Draft Pending Adoption

4. Discussed Comments Received on Revision Suggestions to the *Title Insurance Consumer Shopping Tool Template*

Ms. Rafeld stated that following the Feb. 23 call, a request was sent out for members, interested state insurance regulators, and interested parties of the Task Force to submit revision suggestions for the *Title Insurance Consumer Shopping Tool Template* for the drafting group to consider in its drafting sessions by March 12. Revision suggestions were received from Virginia and Louisiana. Virginia and Louisiana's suggested edits included the following:

Virginia

- Revising the “If you’ve found the perfect home or property” subsection to: 1) combine the fifth and sixth bullets to: “You’ll buy homeowners insurance through a licensed property and casualty insurance agent who can also assist you in determining if you need additional coverages, such as flood or earthquake”; and 2) add that closings may be held in person or virtually.
- Revising the “If you’re refinancing your home or property” subsection to identify lenders and owners.
- Revising the “Two Types of Title Insurance—Owner’s and Lender’s Policies” section to note that coverage can also apply to heirs.
- Revising the “What Doesn’t Title Insurance Cover?” section to add a comment that encourages consumers to contact their title insurance company if there are any questions regarding coverage of a possible claim.
- Revising the “The Right to Choose Your Own Title Agent/Company” section to delete the reference to “in the phone book.”
- Revising the “Closing Agents” section to include banks and real estate brokers handling some settlements.
- Revising the “Shop Around for Title Insurance and Closing Services” section to mention some states allow for negotiated rates.
- Revising the “Final Tips to Remember” section to add fraud tips from the FBI and red flags and prevention methods for business email compromises (BECs), personal email compromises, phishing, etc.

Louisiana

- Replacing “agent” with “producer” and adding clarifying language to include “property” in addition to “home” throughout the document.
- Revising the “Introduction” section to change “good” to “wise” and move “however” to the beginning of the sentence.
- Revising “The Difference Between Title and Homeowners Insurance” section to create separate bullets for multi-sentenced bullets and support the statement on how a homeowners policy is paid and renewed.
- Adding a “The Role of Fraudsters in Real Estate Transactions” section.

Mr. Beavers stated that his proposed revisions focus primarily on information to assist consumers when they have an issue with fraud, such as email compromise.

Mr. Byrd stated that his proposed revisions include considering if “producer” should be used in place of “agent,” changing the format, and adding a new section on fraud.

Ms. Rafeld asked that any additional proposed revisions be submitted to NAIC staff by March 19.

Having no further business, the Title Insurance (C) Task Force adjourned.

W:\National Meetings\2021\Spring\TF\Title3.16-TitleTF.docx

Hear an Update on Revisions to the *Title Insurance Consumer Shopping Tool Template*

—*Director Judith L. French (OH)*



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS

Hear a Presentation on Best's Market Segment
Report: *U.S. Title Insurance Market*

—*Kourtnie Beckwith & Fred Eslami (AM Best)*

Attachment 3



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS

AM Best's Title Insurance Market Segment Outlook

Kourtnie Beckwith – Financial Analyst, AM Best
Fred Eslami – Associate Director, AM Best

May 11, 2021
NAIC Title Task Force Presentation

Presenters

Kourtnie Beckwith is a Financial Analyst, with the Property and Casualty ratings division responsible for the analysis and financial ratings of captive insurers and title organizations in the United States. Kourtnie is also a contributing author to various Best's Special Reports. Kourtnie holds a degree in business management from the University of Phoenix, and as a veteran in the insurance profession with more than two decades of experience, she is committed to ongoing professional development, holding the Chartered Property and Casualty (CPCU), Associate in Underwriting (AU) and Associate in Marine Insurance Management (AMIM) designations.

- Contact: Kourtnie.Beckwith@ambest.com



Fred Eslami is an Associate Director, with the Property and Casualty division responsible for rating of domestic and international captives and title insurance companies. Fred also leads the Cyber Insurance initiative at AM Best for all Property & Casualty and Life/Health divisions. He is a regular author and contributor to various special reports and briefings on captives, title and cyber insurance. Fred is a graduate of University of Pennsylvania and Philadelphia University with MA degree in international relations and business and MBA in Management and Administration.

- Contact: Fred.Eslami@ambest.com



Agenda

- Introduction
 - Definition and Criteria of Market Segment Outlook
 - Best's Market Segment Outlooks
 - AM Best 2020 Title Insurance Market Segment Outlook
 - AM Best 2021 Title Insurance Market Segment Outlook
 - Position of AM Best Rated Title Insurance Companies
 - Economic Factors Impacting Title Insurance Segment
 - Upside potential
 - Downside risks

Definition and Criteria of Market Segment Outlook

Definition and Criteria of Market Segment Outlook

- AM Best's market segment outlooks examine the impact of current trends on companies operating in particular segments of the insurance industry over the next 12 months.
- Typical factors we would consider include current and forecast economic conditions; the regulatory environment and potential changes; emerging product developments; and competitive issues that could impact the success of these companies.
- Best's ratings take into account the manner in which companies manage these factors and trends.

Best's Market Segment Outlooks



Best's Market Segment Outlooks

AM Best's Market Segment Outlook, like a Best's Credit Rating Outlook for a company, can be Positive, Negative, or Stable.

- A Positive market segment outlook indicates that AM Best expects market trends to have a positive influence on companies operating in the market over the next 12 months. However, a Positive outlook for a particular market segment does *not* mean that the outlook for all the companies operating in that market segment will be Positive.
- A Negative market segment outlook indicates that AM Best expects market trends to have a negative influence on companies operating in the market over the next 12 months. However, a Negative outlook for a particular market segment does *not* mean that the outlook for all the companies operating in that market segment will be Negative.
- A Stable market segment outlook indicates that AM Best expects market trends to have a neutral influence on companies operating in that market segment over the next 12 months.

Best's update market segment outlooks annually, but may revisit them at any time during the year if regulatory, financial, or market conditions warrant.

AM Best 2020 Title Insurance Market's Outlook



AM Best 2020 Title Insurance Market's Outlook

US Title Industry Market Outlook

- In April 2020, AM Best revised its US Title Industry Outlook to Negative following the outbreak of COVID-19 pandemic:
 - Stable Outlook was revised to negative due to sudden economic slowdown in 2020
 - US economy threatened with recession
 - Pandemic disruptions
 - Lockdown measures
 - Social distancing
 - Business Closures
 - Rising unemployment levels
 - Tighter labor markets

AM Best 2021 Title Insurance Market's Outlook



AM Best 2021 Title Insurance Market's Outlook

US Title Industry Market Outlook

- In February 2021, AM Best revised the US Title Industry Outlook to Stable:
 - Negative Outlook was revised to stable due to exceptional performance in 2020
 - All AM Best rated Title Insurers had strong performance relative to 2019
 - Federal Reserves cut federal funds rate by 150 basis pts (bringing rate to zero)
 - Federal Reserves purchased assets in the open markets (including mortgage back securities)
 - Rates near historic lows
 - Most profitable segment in property & casualty industry
 - Innovative Technology
 - Refinance and home purchases surged latter half of 2020
 - Increase in home prices due to shortage of housing inventories
 - Expectations in 2021

Position of AM Best's rated Title Insurance Companies



Position of AM Best's rated Title Insurance Companies

Market Share & Profitability Measures:

- AM Best rates approximately 60% of the premium in the title segment.
- For this universe, premiums in 2020 increased by 15% from 2019.

Five/Ten Year Average Profitability Measures ending in 2019			
Title Insurance Segment			
	5-Year	10-Year	
Loss & LAE	4.3	5.9	
Underwriting Expense	88.8	89.1	
Combined	93.1	95.0	
Operating	91.2	93.1	
ROR	7.0	7.5	
ROE	25.3	27.4	

Position of AM Best's rated Title Insurance Companies

Major themes impacting the operating performance of AM Best's rated Title Insurance companies in 2021:

- Refinance activity expected to decrease Q2 2021
- High demand for home purchases which will keep home loan originations steady through 2022
- New residential construction expected to increase through 2022
- Federal Reserve to keep rates close to net zero as the goal is to boost the economy

Economic Factors Impacting Title Segment



Effective Vaccines and Government Spending put US Economic Recovery on Firmer Ground

- First Quarter GDP registered 6.4% growth
- Economic growth will be led by healthier consumers
 - Consumers, fueled by savings and government checks, drive spending higher
 - The University of Michigan Consumer Sentiment Index rose to its highest level in 13 months in April
 - Significant improvement in the labor market. However, for certain sectors a return to pre-pandemic strength will take more time
- Inflation expectations are increasing. Questions remain as to whether prices will be “sticky” or temporary
- After contracting by -3.5% in 2020, the IMF is projecting the US economy will grow by 6.4% in 2021 and 3.5% in 2022

Housing Market

- Housing market continues to be supported by near historic low mortgage interest rates, pent-up demand and housing market appreciation.
- Tight inventories, particularly of less expensive homes, and home prices at multi-year highs are putting home buying out of reach for many households.

Biden Doubles Down on Govt. Spending

- Fiscal Policy – over 25% of GDP
 - Coronavirus Aid, Relief and Economy Security Act (“CARES Act”)
 - Paycheck Protection Program and Health Care Enhancement Act (“PPP”)
 - Consolidated Appropriations Act
 - American Rescue Plan
- Proposed spending bills currently being discussed
 - American Jobs Plan (2.7 trillion over 10 years, approximately 13% of GDP)
 - American Families Plan (1.8 trillion over 10 years, approximately 8.5% of GDP)

Accommodative Monetary Policy Remains

- Monetary Policy remains extraordinarily accommodative with many of the early crisis protections still in place
 - Federal funds rate was cut by 150 bps in March 2020 and remains at the zero-lower bound
 - Federal Reserve has signaled they plan on keeping the Federal Funds Rate at its current level over the next few years
 - Provided increased liquidity by purchasing assets in numerous financial markets
 - Lower regulatory requirements to help facilitate lending

What Could Go Right/Wrong?

- Upside potential
 - Global vaccine efforts are effective resulting in increased worldwide economic activity
 - US business activity continues to normalize with the service sector gaining strength
- Downside risks
 - Vaccine hesitancy, other potential risks from vaccine use are uncovered
 - Virus mutates and vaccines are no longer/as effective
 - Inflation increases at a greater rate than expected
 - Federal Reserve reverses course on accommodative monetary policy sooner than markets expect

Questions?



Hear a Presentation on the Financial Performance of Title Insurers in 2020

—*Birny Birnbaum (CEJ)*



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS



**Recent Title Insurer Revenue, Expenses and Profit
NAIC Title Task Force**

May 11, 2021

Birny Birnbaum
Center for Economic Justice

The Center for Economic Justice

CEJ is a non-profit consumer advocacy organization dedicated to representing the interests of low-income and minority consumers as a class on economic justice issues. Most of our work is before administrative agencies on insurance, financial services and utility issues.

On the Web: www.cej-online.org

About Birny Birnbaum

Birny Birnbaum is the Director of the Center for Economic Justice, a non-profit organization whose mission is to advocate on behalf of low-income consumers on issues of availability, affordability, accessibility of basic goods and services, such as utilities, credit and insurance.

Birny, an economist and former insurance regulator, has worked on title issues for 30 years. He has consulted to public agencies on title insurance competition and provided expert testimony in numerous title insurance rate proceeding. He has served for many years as a designated Consumer Representative at the National Association of Insurance Commissioners and is a member of the U.S. Department of Treasury's Federal Advisory Committee on Insurance, where he co-chairs the subcommittee on insurance availability. Birny is also a member of the U.S. Federal Reserve Board's Insurance Policy Advisory Committee.

Birny served as Associate Commissioner for Policy and Research and the Chief Economist at the Texas Department of Insurance. At the Department, Birny developed and implemented a robust data collection program for market monitoring and surveillance.

Birny was educated at Bowdoin College and the Massachusetts Institute of Technology. He holds Master's Degrees from MIT in Management and in Urban Planning with concentrations in finance and applied economics. He holds the AMCM certification.

Why CEJ Works on Insurance Issues

Insurance Products Are Financial Security Tools Essential for Individual and Community Economic Development:

CEJ works to ensure ***fair access*** and ***fair treatment*** for insurance consumers, particularly for low- and moderate-income consumers.

Insurance is the Primary Institution to Promote Loss Prevention and Mitigation, Resiliency and Sustainability:

CEJ works to ensure insurance institutions maximize their role in efforts to reduce loss of life and property from catastrophic events and to ***promote resiliency and sustainability*** of individuals, businesses and communities.

Presentation Outline

- 1. What is a reasonable profit for a title insurer?**
- 2. Recent title insurer revenue, expenses and profitability**

What is a reasonable profit for a title insurer?

How would a regulator determine if title insurance rates are excessive?

Achieve a sufficient after tax return on capital sufficient

- Lower interest rates – lower cost of capital
- Cost of capital – equity + debt
- Lower corporate tax rate – lower cost of capital
- Investment income offset – lower investment income, higher cost of capital

Target After-Tax Return on Equity	10%	13%	20%	30%	35%
Corporate Tax Rate	21%	21%	21%	21%	21%
Before Tax Target RoE	12.7%	16.5%	25.3%	38.0%	44.3%
Premium to Equity Ratio	2.0	2.0	2.0	2.0	2.0
Profit Margin from Premium	6.3%	8.2%	12.7%	19.0%	22.2%
Texas 2019 Rate Order	8.5%	8.5%	8.5%	8.5%	8.5%

Stewart

	<u>19Q4</u>	<u>20Q1</u>	<u>20Q2</u>	<u>20Q3</u>	<u>20Q4</u>	<u>21Q1</u>
Title Revenue (\$M)	\$517.88	\$450.99	\$511.04	\$595.70	\$732.37	\$685.31
Margin	2.5%	4.7%	8.7%	12.9%	10.9%	10.4%
"Pre-Tax Margin"	4.0%	3.4%	10.9%	14.5%	13.6%	12.2%
Expense / Revenue	48.0%	46.0%	41.5%	42.7%	43.0%	43.0%
Title Claims	5.7%	4.2%	4.3%	5.1%	6.8%	4.6%
Change in Premium		-13.0%	12.6%	13.5%	22.7%	-9.4%
Change in Expense		-16.5%	2.2%	19.8%	23.8%	-6.3%

What caused the increase in expenses in 20Q3 and 20Q4?

Was it pandemic-related expenses?

Stewart Expenses 20Q3

For the third quarter 2020, total employee costs and other operating expenses related to new acquisitions aggregated to \$6.1 million and \$21.7 million, respectively. **Excluding these acquisitions, total employee costs increased \$5.7 million, or 4 percent (vs. 13.5% increase in revenue), in the third quarter 2020 compared to the third quarter 2019, primarily due to higher incentive compensation on improved overall operating results.** As a percentage of total operating revenues, consolidated employee costs for the third quarter 2020 improved to 26.3 percent from 28.3 percent in the third quarter 2019.

Excluding acquisitions, other operating expenses decreased \$11.0 million, or 13 percent (vs. 13.5% increase in revenue), in the third quarter 2020 compared to the third quarter 2019. This decline primarily resulted from lower outside title search expenses on lower revenues from commercial services and search and valuation services, and reduced spending related to marketing, travel, rent and other occupancy, and third-party consulting. As a percentage of total operating revenues, consolidated other operating expenses for the third quarter 2020 improved to 16.7 percent compared to 17.3 percent in the third quarter 2019.

Stewart Expenses 20Q4

Total employee costs and other operating expenses related to operations of new acquisitions were \$20.6 million and \$34.0 million, respectively, for the fourth quarter 2020.

Excluding these acquisitions, total employee costs increased \$9.6 million, or 6 percent (versus 22.7% increase in revenue), in the fourth quarter 2020 compared to the prior year quarter, primarily due to higher incentive compensation on improved overall operating results, partially offset by lower severance expenses. As a percentage of total operating revenues, consolidated employee costs for the fourth quarter 2020 improved to 25.3 percent from 30.1 percent in the fourth quarter 2019.

Excluding acquisitions, other operating expenses increased \$1.9 million, or 2 percent (versus 22.7% increase in revenue), in the fourth quarter 2020 compared to the prior year quarter. This increase primarily resulted from higher outside title search, attorney fee split and premium tax expenses on higher title revenues, and increased third-party consulting, partially offset by lower insurance, travel and office closure expenses. As a percentage of total operating revenues, consolidated other operating expenses for the fourth quarter 2020 was 17.9 percent compared to 18.4 percent in the fourth quarter 2019.

Old Republic

	<u>19Q4</u>	<u>20Q1</u>	<u>20Q2</u>	<u>20Q3</u>	<u>20Q4</u>	<u>21Q1</u>
Title Revenue (\$M)	\$790	\$691	\$650	\$789	\$1,032	\$968
Margin	8.5%	4.9%	8.6%	11.8%	11.9%	9.7%
Claims to Revenue	1.8%	3.1%	2.7%	2.7%	1.4%	3.0%
Change in Revenue		-12.3%	-5.8%	21.0%	30.4%	-6.1%
Change in Expense		-10.2%	-9.2%	16.8%	32.6%	-5.5%

Old Republic does not provide the revenue and expense detail provided by other title insurers.

First American

	<u>19Q4</u>	<u>20Q1</u>	<u>20Q2</u>	<u>20Q3</u>	<u>20Q4</u>	<u>21Q1</u>
Revenue (\$M)	\$1,571	\$1,369	\$1,400	\$1,731	\$1,947	\$1,821
Margin	17.0%	10.6%	12.8%	17.4%	16.9%	14.5%
"Pre-Tax Margin"	17.8%	5.6%	16.3%	19.0%	18.9%	17.1%
"Pre-Tax Margin Excl Realized Gains"	16.8%	10.3%	12.5%	17.1%	16.8%	14.1%
Expense / Revenue	42.9%	47.4%	45.7%	42.3%	41.8%	42.2%
Title Claims	4.0%	5.0%	5.0%	5.0%	5.0%	4.0%
Change in Premium		-15.2%	2.5%	24.3%	15.0%	-6.9%
Change in Expense		-3.9%	-1.4%	14.6%	11.1%	-5.6%

Fidelity

	<u>19Q4</u>	<u>20Q1</u>	<u>20Q2</u>	<u>20Q3</u>	<u>20Q4</u>	<u>21Q1</u>
Revenue (\$M)	\$2,175	\$1,936	\$2,055	\$2,537	\$2,753	\$2,578
Margin	15.3%	13.4%	17.5%	22.1%	22.0%	19.3%
FNF "Pre-Tax Margin"	20.3%	-3.3%	23.7%	20.4%	29.4%	17.4%
FNF "Adjusted Pre-Tax Margin"	16.3%	14.4%	18.4%	21.2%	22.7%	19.9%
Expense / Revenue	51.0%	52.7%	48.6%	43.8%	42.9%	45.0%
Title Claims	4.4%	4.5%	4.5%	4.4%	4.5%	4.5%
Change in Premium	-0.2%	-13.9%	6.3%	29.8%	10.4%	-7.3%
Change in Expense	3.6%	-7.9%	-2.2%	11.3%	6.3%	-1.9%

Takeaways

- **First American and Fidelity achieved windfall profits**
- **No evidence of increased overall expenses associated with the pandemic**
- **Absence of price competition requires much greater regulatory oversight.**

Q&A



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS

Any Other Matters



NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS