Ethan Sonnichsen: One of my favorite lines from Monty Python is from the Holy Grail. "Strange women lying in ponds distributing swords is no basis for a system of government.” But honest to God, I think we should give it strong consideration.

Mike Consedine: Welcome to The Regulators. A podcast where we break down the important issues facing insurance regulators, consumers, and the industry. I'm your host, Mike Consedine, CEO for the NAIC.

Mike Consedine: Well, the 2020 presidential election is behind us. Well, mostly. We saw the highest voter turnout in modern history. Nearly 160 million Americans voted. And so, it's appropriate on this episode of The Regulators we're talking about the energy behind this election and its impact on our state-based insurance regulation. Ethan Sonnichsen NAIC’s Managing Director of Government Relations and our resident in-house political guru joins me today to talk about election 2020. So, Ethan thanks for joining me.

Ethan Sonnichsen: Thanks. I appreciate it.

Mike Consedine: So, we have a lot to talk about and still some unknowns where we're talking here on November 9th. We kind of have a sense of how the presidential election might have turned out. Still some prospects for some litigation. There's still a lot of unknowns regarding Congress, but we're going to get into all of that, Ethan. But before we do that, let me first congratulate our NAIC members who got reelected in Delaware, North Carolina, North Dakota, and Washington, as well as welcoming a new member from Montana, Commissioner Troy Downing. The NAIC is looking forward to building on these important relationships. And congrats to our elected members. But, Ethan, let's now revisit November 3rd, if we dare. I watched three days of returns, and I guess the best I can say is my pandemic binge watching over the last nine months adequately prepared me for this election experience. Did you really think it would take this long to find out who the 46th President of the United States was going to be?
Ethan Sonnichsen: A part of me did. Yeah, I mean, I thought because of COVID in particular and the heavy reliance on mail-in, voting and voting in advance, things like that, I knew there was going to be some time and the states; you know, they all have a somewhat different approach to going through those ballots. Some can't even really start until the Election Day, which means, you know, if you've got big numbers, it's going to take some time.

And then the other unknown was, well, you know, if one of the candidates is sort of miles ahead and this turns into a landslide, well, then maybe you would take a lot less because you'd be able to project much earlier without all the votes fully being in yet kind of where this was going to end up.

But as we all saw unfold in nail-biting fashion, this was a very close election and a lot of ways, and it took some time for the votes to fully be tallied and for it to be clear who the eventual winner was going to be. So, I guess I'm not that surprised, but I think I speak for the entire world when I say I just want it to be over. I just want to move on and start thinking about what happens next.

Mike Consedine: Yeah, no, I think that does accurately capture everyone's sentiment regardless of their political party. So, I have this vision of you on election night with your family and children and maybe pets gathered around the Ethan whiteboard, you know, plotting out the results as they were coming in. So as somewhat of a pro and DC insider on election night, what were you looking at as those results started to come in? And did you see any initial surprises?

Ethan Sonnichsen: You know, I think, and we've been talking about this and other people have said this, this isn't going to be anything new for folks who love elections and love watching. But, you know, this was going to come down to five, six states and everybody sort of knew that. And so, sure enough, I mean, some of those states are the ones that have tricky rules for counting ballots and for voting. So, you know, I was just literally on pins and needles up until, you know, maybe one or two o'clock in the morning the first night, and then woke up early the next day and it just kind of continued. That sort of vigilance, so as a father of two small children, I find it really hard that I don't own the TV anymore. My kids do. And this is the one time where I was like, "No, daddy's in charge." The TV is not changing. We are watching this. And my kids early on said, "Oh, this is so boring." But by the end of it, they're like, "Who's ahead? Who's behind, what's happening in
Pennsylvania?" And this is coming from a six-year old. So, I think they understood the importance of an election of this magnitude. And it was fun to sort of share that with them.

But in terms of surprises, yeah, just watching how close a lot of states were, there were a lot of you know, once again, some polls thought that this wasn't going to be competitive in some places, and it really was. And that just speaks to the fact that, you know, unfortunately, we are a country very much divided on a lot of grounds. And I think that showed up in the election.

**Mike Consedine:** Yeah, I love your point on your kids’ engagement. And it was it was also an opportunity for us to say, and this is why math is important, that this is why you learn to count and do addition and subtraction and multiplication. But it was -- yeah, it was fascinating. And I think, you know, particularly, you know, the dynamic and maybe something you can comment [on]. You know, this is our first election in the midst of a global pandemic and maybe we've just been spoiled where, you know, sort of the night of you kind of know who the next president's going to be after. You know, you kind of tally the Election Day results where everybody generally lines up at their polling places, cast their votes. They're electronically tabulated. And, you know, voila, even the last election, we kind of knew that night who was going to be president. That was not the case this time around, particularly with the mail in vote dynamic. And you saw that play out, particularly with respect to a state like Pennsylvania where, you know, the night of the president was well ahead, half a million or more votes and slowly, day after day, you saw that eroded. So, was that something you and sort of other political folks were prepared for? Was that much more significant than anticipated?

**Ethan Sonnichsen:** I think it was more than anyone really anticipated. And it's compounded by, you know, just the overwhelming volume of information and data. I mean, you can't go on CNN or anywhere without getting a headache, just trying to figure out what all the different numbers and charts and things move. [When] I was a teenager paying attention to elections, it was like you had three networks and then maybe CNN and that was it.

And they definitely didn't have the volume and the pace of information. And so, there was a little bit more like, we'll just wait and see. But now we are so used to
instant information and that we just need to know right now. And so, we track it so closely. But I mean, think about it like this.

The election was on Tuesday and different networks and media sources sort of are willing to make calls at different based on different criteria. But eventually, pretty much everybody by Saturday was saying, you know, here's the results of the presidential race.

And that's not the same thing as knowing Wednesday and having that peace of mind. But given everything that's going on and how hard it is and all those poll watchers and ballot counters that had to put on a mask and go in and just deal with a record number of, you know, alternative voting through like mail-in and just the record turnout. I mean, we had both candidates set records for turnout for their party. So that's just a lot of counting to do. And I think we're all just impatient. And I think that speaks more to the mood of the country, just wanting this to be behind us. This in the sense of the election, this in the sense of COVID. We just want something that we can say, OK, I know what's coming next, at least in this one area. So, there was pent up -- just demand for that level of clarity and finality. And, you know, as we sit here today Mike, like we don't we don't quite have it.

[SEGUE BREAK]

[Podcast Music]

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Ethan, we're speculating a little bit, but I think we have a fair degree of certainty here on November 9th about the next president, that administration. But we don't have a great deal of certainty yet about how their agenda might be prioritized, particularly with still some of the uncertainties around how Congress might shape up. As you're looking at a Biden presidency and looking at, the campaign priorities and platforms, what are you looking at and what kind of actions do you foresee, particularly in the near term, that this administration might take, particularly those that relate to our world of insurance?
Ethan Sonnichsen: Well, we've got a lame duck session, right? That's coming up. There's been some signaling from Democrats and Republicans that they would like to take a run at another stimulus. I think the country is counting on that, so, you know what the contours of that look like in a lame duck, knowing that [Sen.] Mitch McConnell is a smart, strategic guy, he knows that if there's a Biden administration coming into January, his best chance of sort of getting some of the details that he wants are probably now, but his leverage is reduced significantly with Biden coming in. So I hope what that means is that Democrats and Republicans in Congress come to the table putting sort of the pain and suffering of Americans ahead of the maneuvering and heads I win, tails you lose.

Typical approach to designing big pieces of legislation. I think that the current administration is probably going to step back from some of those negotiations and not be quite as forceful or as involved in sort of brokering a deal. And I think they're going to turn it over to the leadership and then the House and Senate to focus on that. We've got to keep the government going past December 11th. So, we've got to pass must do spending bills. The president's going to have to sign. Those are a continuing resolution. Just a little bit closer to home for us and our members is balance billing. There's some talk of maybe taking some headway on an issue that has been largely bipartisan, just addressing the surprise bills that are folks are getting. Those are the things that are likely to happen between now and the end of the year Biden administration. Stabilizing COVID is going to be his top priority. I mean, he's already announced the makeup of his COVID19 team. You know, clearly a ton of work has been put in already into wanting to hit the ground running on that and a number of other issues. The transition teams are already you know, it's already kind of ramping up its work. So, we think that will be the most obvious priority, that stabilizing the economy, making sure that there is, in fact, the stimulus bill. But in terms of his priorities, I think things like climate and race and some of the social justice issues that have dominated our attention other than COVID are going to be front and center for what he wants to tackle after he kind of puts COVID on sound footing.

Mike Consedine: You know, let's talk about maybe an issue like climate risk resiliency, [it's] been an NAIC priority. We've got an executive task force that's up and running and really diving deep into that issue.
But again, you know, we have an administration that has essentially promised that day one we'll be back into the Paris Accord. And, you know, this will be an overarching priority for them. What more can we expect potentially in an area like climate risk, particularly as it relates to the financial services sector? Are we looking at it from a systemic risk standpoint or are we looking at it from an investment governance standpoint? What are your thoughts on that?

**Ethan Sonnichsen:** Yeah, that's a huge issue; not to cop out, but I think it depends a lot on what happens with those two Senate races in Georgia that are going to a runoff because [if] the Democrats take the Senate; obviously, you can get even with such a narrow margin, you can get a lot more done. You can perhaps advance some more ambitious legislation. It's still a struggle. But you can certainly do that. If they don't have the Senate, then I think the Biden team is likely thinking about what do we have the power to do from within the executive branch and certainly rejoining the Paris Climate Accord, prioritizing this as a risk to look at for your financial regulators that you will get to a point. So, picking people that are leaders in that area could be something that they do. I think just already Congress is going to keep pressure up, at least in the House. There's a hearing coming up just asking the federal prudential regulators about what they're doing to ask banks in particular to disclose those risks. I think that's going to absolutely be coming from the administrative level as well. So, we'll see that and there'll be some pressure on. As we know, some of our insurers are closely aligned or part of banking group. So I have to see how that plays out right now, everybody is looking at, OK, well, if we don't have the Senate, what can we accomplish by executive order, regulation or administrative action? And the answer is certainly in financial services, it's quite a bit there's a lot you can do on disclosure. Like you said, you could look at you can have FSOC prioritize climate as a systemic risk. You can have financial firms have to incorporate that into any internal, you know, enterprise risk management work that they're asked to do by the regulator. So, there's quite a bit that just the president alone in his administration can do. And I think that's where everyone's going to be focused, particularly if Democrats don't pick up the Senate.

**Mike Consedine:** Well, I know another issue. You touched on health care particularly as it relates to pandemic response here in the near term. But I know it's one of those issues and you and I talking has the potential to be all consuming.
Let me paint a particular scenario that I know you and I have kind of started to game out a little bit. You've got the Supreme Court this week.

Arguments on the future fate of the Affordable Care Act they will potentially issue a decision early next year that could completely do away with the ACA. And then you potentially at that point, have a divided Congress that's not a position to act particularly quickly or promptly on a backup plan. So, what's that look like for states and state insurance regulators?

**Ethan Sonnichsen:** A term? Hot mess comes to mind. (jokingly laughs) I mean, we can joke about it now because it's just hard to wrap your head around it, but the consequences are absolutely they would just touch every corner of this country. Let's just say if things kind of hold the way, they look like they're going to go speculating. Here right, it's only November 9th. You know, the Democrats probably won't have the Senate and but no matter who does, [they] will have a very slim one seat majority or something like that. So, the ability to take some of the things that have been talked about in the campaign from the Biden team, like the Public Option and get that done legislatively are next to none. You know, if you strike down the ACA, you've got to get something done through Congress that's going to be divided and it's going not want to expand the ACA beyond the contours that it already is. If even that If that means that our state regulators are going to be looked to from their governors and legislatures to see what they can do to sort of plug some of the gaps there. And lots of states have already taken action along those lines to take some of the parts of the Affordable Care Act that makes sense to them and embed those in state law. But to be honest, Mike, I mean, you know, the ACA at the end of the day provides money. It provides money in the terms of expanding Medicaid, and it provides premium tax credits and subsidies for people. That's in large part how the ACA works. If that goes away, there's really not the ability at a state level to replicate that anywhere near the same scope. I suspect a lot of the conversation, if the ACA gets struck down, is just going to be unfunded. How do we fund it? How do we give the states the money or how do we fund the systems? We want to take what some people estimate will be 20 million plus people who have been losing insurance and quickly get them something approaching meaningful coverage. So, it is a huge, huge conundrum for them to have to wrestle with.
Mike Consedine: So, buckle up, I guess, for the first half of the year. Well, before we wrap up, Ethan, we have to touch on sort of the social justice issues around race, diversity, inclusion.

Again, something that really the NAIC membership has been laser focused on this past year and have a number of our own efforts going. But, you know, again, as we look at a Biden administration and particularly, you know, its engagement on this issue and where some of the issues in the past have come up, what form do you think that might take early on? And then administration again, recognizing there may not be a lot they can do at a congressional level.

Ethan Sonnichsen: There's a fair amount you could do at an administrative level. But for you know, this is obviously a much bigger issue than just our little world of insurance. But I think it's you know, the priorities will sort of first and foremost look at, if I had to guess, you know, criminal justice reform and what that might look like. So, getting rid of cash bail and things like that, you know, decriminalizing certain drug offenses that disproportionately impact people of color, there's just a lot of moving parts. The reason that they call racism systemic is because it's system wide. Right. Which means you have a lot of parts of regulation, government, and legislation that you would have to pull apart to fully address. I think you're going to see under a Biden administration, perhaps one of the most diverse cabinets and sort of leadership teams that you'd, ever see. Look who his running mate was, Vice President Kamala Harris. I mean, vice president elect, I should say. She has a passion on criminal justice issues that I think she's going to be a very outspoken force on that issue. For us as a group that works with regulators in the financial services space, I think you can expect in particular the House to kind of continue to press for diversity in the boardrooms of some of the big financial firms and also the distribution of products to all consumers, regardless of race or other factors, have access to products that are affordable and fair. And so, I think we can expect that insurance is fair game for Congress to look at that and our members will be asked to come and speak to their record on that issue. So, I think some of the work that's launched under [NAIC] President [Ray] Farmer to sort of set the stage is going to be absolutely critical. This isn't just one of those things that we spit out a nice report and it sits on a shelf for five years that we take some meaningful action with our legislative colleagues. And at the state level, it's going to be critical.
Mike Consedine: I think the NAIC membership understands that. Well, Ethan, it is unpredictable and as challenging as 2020 has been, you are not giving me many assurances that 2021 is going to be much better at this point. But I know I and our membership take a great deal of comfort in the fact that we've got an amazing NAIC team in place to engage on these issues. So, I sure hope between now and January 20th, you and the rest of the gang get a lot of rest and eat your Wheaties. (laughs)

Ethan Sonnichsen: Oh, thanks, Mike. You know, I can't let you go without --- you and I share an affinity for Monty Python and one of my favorite lines is from the "Holy Grail", where the guy says "Strange women lying in ponds distributing swords is no basis for a system of government. But honest to God, I think we should give it strong consideration." (laughs) I am exhausted. Something that would simplify this, make it more crystal clear.

You know, you had talked about if/then and if this happens with the election, then we should do this. Well, now the "ifs" are pretty much playing out and our membership is going to move on to the "then" here very quickly and in the next couple of months.

Mike Consedine: Well, I could not think of a better way to wrap this podcast up than on a Monty Python quote, and we'll leave it there, Ethan, but a real pleasure to get your take. Thanks again.

Ethan Sonnichsen: Thanks, Mike. Appreciate it.

Mike Consedine: And thank you for listening to The Regulators. Join us each month and subscribe to The Regulators wherever you get your podcasts. See you next time.