

March 20, 2012

The Honorable Edward R. Royce  
U.S. House of Representatives  
2185 Rayburn House Office Building  
Washington, DC 20515-0540

Dear Mr. Royce,

I am in receipt of your letter dated February 28 and I am happy to respond to your inquiries concerning the National Association of Insurance Commissioners (NAIC). The NAIC was organized in 1871 by the chief insurance regulators of the states to exchange ideas and information and to promote the uniformity of insurance regulation in policy, laws and regulations where such uniformity is appropriate. In 1999 the NAIC incorporated under the laws of the State of Delaware and was awarded 501(c)(3) tax exempt status shortly thereafter. Membership in the NAIC is voluntary; however, all 50 states, the District of Columbia and five US territories are represented. More than 4000 state statutes, regulations, bulletins, attorney general opinions and court cases reference the NAIC. The NAIC supports the insurance regulatory work of its members providing services and systems that would otherwise fall to the states to develop individually.

At the outset, it appears there may be some confusion regarding the role of the NAIC in the national state based system of insurance regulation and I hope this letter serves as sufficient clarification for you. The NAIC as an association does not have regulatory authority, but its members do. The association does provide a forum for members to establish regulatory policy, standards, and best practices. However, the decision to implement such standards remains with the individual states. The NAIC therefore does play an integral role in the national system of state based regulation as a forum for standard setting, but it is not a regulator. There can be confusion when collective state regulatory actions developed at an NAIC meeting are mistakenly referred to as actions “of the NAIC” in the press or elsewhere, but at no time has the organization itself represented that it is a regulator. This is consistent both with Commissioner Voss’s testimony, which indicated the NAIC as an association is not a national or federal regulator, and the NAIC press release you cited in your letter which mentioned the role centralized resources of the NAIC play in assisting state regulators in carrying out their regulatory function.

I will now turn to responding to some of the specific issues you have raised:

The NAIC’s legal status is a Delaware non-profit corporation recognized as a 501(c)(3) by the Internal Revenue Service. The NAIC is not a trade association and you are correct that members of the NAIC object to its characterization as such. A trade association is made up of businesses or business people in a common field and is designed to assist its members and its industry in dealing with mutual business problems. The NAIC is an association of elected and appointed state regulatory officials charged with regulating the insurance industry under state law.

Specifically, the NAIC is organized for the purposes of:

“. . . assisting state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals: a) protect the public interest, promote competitive markets and facilitate the fair and equitable treatment of insurance consumers; b) promote, in the public interest, the reliability, solvency and financial solidity of insurance institutions; and c) support and improve state regulation of insurance.” (Source: NAIC Articles of Incorporation)

You mention the oral testimony of Commissioner Voss in response to a question from Congressman Dold. Commissioner Voss’s full response, according to the transcript was as follows:

“The NAIC is really our organization that helps us put standards together, standard setting, and sort of collectively represents what our thoughts are. We don’t put ourselves out as some regulatory body. Having said that, I think through even Federal regulation laws, if you look at the Health Care Reform Act, the NAIC has been asked to set standards for certain processes under PPACA. And so collectively, the regulators get together and discuss those. But we don’t hold ourselves out as some kind of Federal or national regulatory system. We are a national body that represents all of the regulators.”

Commissioner Voss clearly makes the point that the NAIC is not a regulatory body, though she mistakenly uses the word “system” at the end of her response where the word “body” would be more appropriate. We appreciate the opportunity to clarify that word choice and apologize for any confusion it may have caused you.

The NAIC as a non-profit corporation does not have regulatory authority, and I am not aware that it has ever presented itself as having such authority. However, its membership is composed of individuals that do have such authority and the NAIC provides a forum and vehicle for its membership to develop standards and collectively set regulatory policy including serving as its members’ collective voice, crafting models laws and guidelines, coordinating examinations, and consulting each other regarding regulatory actions.

The NAIC activities you have identified do not amount to regulating interstate commerce or exercising regulatory authority as the NAIC simply provides these resources to assist the states in carrying out their regulatory functions.

You have identified several NAIC programs which are explained as follows:

- The Securities Valuation Office (SVO) is a division within the NAIC that conducts credit quality assessment and valuation of securities owned by state regulated insurance companies. Insurance companies report ownership of securities to the SVO as part of their annual financial statement filings which are mandated by the states. The SVO conducts credit analysis on these securities for the purpose of assigning an NAIC designation and/or unit price. These designations and unit prices are produced solely for the benefit of state insurance departments who may utilize them as part of the state’s monitoring of the financial condition of its domiciliary insurers.
- System for Electronic Rate and Form Filing (SERFF). The NAIC developed this system in 1996 to provide a cost-effective method for handling insurance policy rate and form filings between regulators and insurance companies. The SERFF system is designed to enable companies to send and for states to receive, comment on, and approve or reject insurance industry rate and form filings for their insurance products.

- Financial Standards and Accreditation Program. The NAIC accreditation program establishes and maintains standards to promote sound insurance company financial solvency regulations. These standards are developed by the state regulators who are members of the Financial Standards and Accreditation Committee and then must be approved by a super majority of the entire membership. Through this program, the solvency regulation of multi-state insurance companies is enhanced, made uniform and monitored so that state regulators can rely upon each other to make certain companies licensed and selling insurance in the several states are held to adequate solvency standards through a process of financial analysis and examination performed by the domiciliary state regulators.
- Market Analysis Procedures Working Group. The NAIC's Market Analysis Procedures Working Group (MAP) is the national forum for states to share and coordinate their insurance market analysis programs. The working group, which is made up of state insurance regulators, reviews and coordinates state market analysis programs and develops procedures for uniform, nationwide analysis using their adopted Framework for Market Analysis.
- The National Insurance Producer Registry (NIPR) is a non-profit affiliate of the NAIC incorporated in 1996. NIPR supports the work of the states and the NAIC by providing an electronic means for the submission of insurance producers' licensing and appointment transactions to the states. NIPR is governed by a 13 member board of directors, with six members representing the NAIC, six industry trade association representatives, including three producer trades and the CEO of the NAIC as an ex-officio voting board member.

The NAIC is not required to file a Form 990 pursuant to an Internal Revenue Service (IRS) ruling. The documentation from the IRS exempting the NAIC from that requirement will be provided to your office in hard copy. The NAIC was afforded this exemption in 1955 and it was reaffirmed upon our 1999 incorporation and receipt of tax exempt status.

We share your interest in advancing positive regulatory reform to effect better insurance regulation for consumers. There are a number of initiatives underway individually in the states and through the NAIC that are being developed in exactly this spirit of positive regulatory reform. We welcome the opportunity to discuss our work with you or your staff, though we continue to believe that efforts to refine insurance regulation are and should remain the purview of the states.

I trust this response provides substantive answers to your questions and clarification of statements made in your recent letter to the NAIC. If I can be of further assistance, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. McCarty". The signature is stylized and cursive.

Kevin M. McCarty  
NAIC President  
Florida Insurance Commissioner