

Testimony of the
National Association of Insurance Commissioners

Before the
Subcommittee on Capital Markets, Insurance, and
Government Sponsored Enterprises

Committee on Financial Services
United States House of Representatives

Regarding:
State Insurance Regulators' ***A Reinforced Commitment:
Insurance Regulatory Modernization Action Plan***

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Testimony of Mike Pickens, 2003 President National Association of Insurance Commissioners

Introduction

Good morning, my name is Mike Pickens. I am the Arkansas Insurance Commissioner. This year I am serving as President of the National Association of Insurance Commissioners (NAIC). I am pleased to be here on behalf of the NAIC and its members to provide the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises with an overview and update of our efforts to modernize state insurance supervision to meet the true demands of the 21st Century.

Today, I would like to make three basic points:

- First, NAIC and the states are well underway in our efforts to modernize state regulation where improvements are needed, while preserving the benefits of local consumer protection that is the real strength of state insurance regulation. With NAIC's adoption in September 2003 of *A Reinforced Commitment: Insurance Regulatory Modernization Action Plan*, state regulators are on time and on target to accomplish changes needed to establish an efficient national system of insurance regulation in the United States. In some areas, our goal is to achieve national uniformity because it makes sense for both consumers and insurers. In areas where different standards among states are justified because they reflect regional consumer protection needs, we are harmonizing state regulatory procedures to facilitate compliance by insurers and agents doing business in those markets.
- Second, insurance is a complex commercial product that is very much different from banking and securities. Consequently, the process for regulating insurance products must also be different. Insurance policies are essentially financial guarantees that are necessarily rooted in the contractual and tort laws of each state

to provide protection against unexpected and unavoidable losses that can cripple the lives of individuals, families, and businesses. In doing so, insurance products inevitably touch a host of important and often controversial social issues that require statutory code language in every state.

- Third, we strongly believe effective national regulation does not mean federal regulation. Involving the federal government will not simplify the complexity of insurance issues, nor diminish their number, nor smooth the process of regulating them. Instead, federal intervention in supervising insurance will simply add additional layers of harmful uncertainty, confusion, and cost for policyholders and claimants regarding who is in charge of the payment system when they are most vulnerable to the stresses of life's disasters and personal losses. Any federal legislation dealing with insurance regulation carries the risk of undermining state consumer protections through unintended or unnecessary preemption of state laws and regulations. Creating an optional federal charter and its related regulatory apparatus would have a serious negative impact on the state regulatory system, including our efforts to make improvements in areas sought by proponents of a federal charter. Ultimately, a federal regulator will adversely affect necessary state premium taxes and other revenues, which totaled \$16.7 billion in 2002.

State Regulatory Modernization: On Time and On Target

The state regulatory system is inherently strong when it comes to protecting consumers because we understand local needs and local market conditions. However, we agree with critics that there is a need to make the system more uniform, reciprocal, and efficient. In March 2000, the nation's insurance commissioners committed to modernizing the state system by unanimously endorsing an action plan entitled *Statement of Intent – The Future of Insurance Regulation*. Working in our individual states and collectively through the NAIC, we have made tremendous progress in achieving an efficient, pro-competitive-market regulatory system for the business of insurance. Following is a snapshot of state regulators' unprecedented accomplishments.

Producer Licensing and Reciprocity

- Adopted the Producer Licensing Model Act (PLMA) that 49 states have enacted.
- By year-end 2002, 36 states had implemented State Licensing Reciprocity, far exceeding the federal mandate. To date, 41 states now implement SLR.
- The NAIC's affiliate, the National Insurance Producer Registry (NIPR), created the Producer Database, which holds information relating to over 3 million insurance agents and brokers. 50 states, the District of Columbia, and Puerto Rico now use the Producer Database to share information. 1,200 insurers also utilize it.
- 15 states now use the NIPR Gateway, a system that links state regulators electronically with insurance companies to facilitate the exchange of producer information. NIPR allows for the exchange of non-resident license applications, appointment renewals and termination information.
- Created a streamlined company licensing system via uniform filing requirements and electronic processing, called the Uniform Certificate of Authority Application (UCAA). 51 jurisdictions now accept the UCAA licensing application.

Speed to Market

- Created the System for Electronic Rate and Form Filing (SERFF) in 2001.
- As of September 30, 2003, more than 55,000 filings were submitted via SERFF to the states, a 120% increase over all filings in 2002. Approximately 50 percent of SERFF filings are property/casualty, 40 to 45 percent are life, and the balance are health. The 2003 goal is 75,000 filings.

- Total number of insurance companies licensed to use SERFF now exceeds 950, including major players such as Prudential, Liberty Mutual, Manulife, The Hartford and Zurich American.
- To date, 49 states and the District of Columbia accept property/casualty filings via SERFF, 48 jurisdictions accept life insurance filings via SERFF, and 41 jurisdictions accept health insurance filings via SERFF.
- Our goal is all states accepting rate and form filings via SERFF, for all lines of insurance and all filing types, by December 31, 2003.
- Average turnaround time for filings made via SERFF is only 17 days.

Market Conduct and Consumer Protection

- Drafted the Uniform Examination Outline
- 42 states currently certify compliance with two or more of the following exam areas: scheduling, pre-exam planning, procedures, and reports.
- Created the Consumer Information Source (CIS) link on the NAIC Web site, allowing consumers to file complaints electronically, research complaint history of insurance companies and to search and download information on selected insurance companies.

Reinforcing the State Commitment: The NAIC's 2003 Regulatory Action Plan

State regulators have now taken the next step in achieving efficient national regulation by developing specific program targets and establishing a common schedule for implementing them. At the NAIC's Fall National Meeting in September 2003, state regulators adopted *Reinforced Commitment: Insurance Regulatory Action Plan*. This

landmark document – the result of lengthy discussions and negotiations – puts the states on a track to reach all key modernization goals at scheduled dates ranging from December 31, 2003 to December 31, 2008.

Significantly, these specific regulatory program targets were developed with extensive input from industry and consumer representatives who are active in the NAIC's open committee process. To our knowledge, every legitimate complaint regarding inefficiency and redundancy in the state system has been effectively addressed by our new regulatory action plan that will phase-in the necessary improvements over the next five years. Even if an alternative federal regulatory system were set up tomorrow, there is no way it could achieve these improvements on a schedule that comes close to the aggressive timetable which state regulators have adopted voluntarily.

The NAIC is not alone in endorsing state action as the basis for achieving regulatory modernization. We are joined in our resolve by the National Conference of State Legislatures, the National Conference of Insurance Legislators, and the Council of State Governments. Each of these state groups has recently passed official resolutions supporting state regulatory reforms and opposing federal legislation that would preempt or interfere with state regulation. Copies of these resolutions are attached to this statement as Attachment B.

Thus we have a specific action plan, a set timetable for implementing it, and joint support from other state officials who are responsible for changing state laws to get the job done. The reasons for adopting the goals in the new NAIC regulatory action plan are explained well in the document's introduction:

States have met the challenge of regulating a national and international business on a fifty state basis using a number of innovative mechanisms. The NAIC Financial Regulation and Accreditation Standards Program has served the insurance industry and consumers well for the past fourteen years. The program

has ensured coherent financial solvency oversight and has proven to be a highly effective approach within the state-based system. As licensing states substantially defer to the insurer's home state for nearly all aspects of financial and solvency regulation, the state solvency system promotes intelligent and efficient use of finite regulatory resources. By focusing on those insurers that pose solvency risks, this system has strengthened protection of policyholders and benefited both the insurance industry and policyholders by minimizing regulatory costs. While NAIC members continue to seek greater effectiveness and improvements to the financial standards of the program, it can serve as a template for market based regulatory reforms.

Using this state-based solvency system as a model, the members of the NAIC will design and implement similar uniform standards for producer licensing, market conduct oversight, and rate and form regulation. In addition, the NAIC will expand the existing financial regulation framework to institute true uniformity and reciprocity in company licensing requirements, and further enhance financial condition examinations, and changes of an insurer's control during mergers and acquisitions.

Creating a truly national – but not “federal” – system of regulation has been a long-term goal of NAIC and state insurance regulators. What's new is we now have a realistic, detailed action plan for meeting that goal.

Specific Action Goals in the NAIC Plan

The NAIC's 2003 action plan with current updates on the progress made is appended as Attachment A. It's useful to focus on the NAIC's declared principles and goals reflecting our commitment to continue modernizing insurance regulation:

I. Consumer Protection

“An open process ... access to information and consumers' views ... our primary goal is to protect insurance consumers, which we must do proactively and aggressively, and provide improved access to a competitive and responsive insurance market.”

II. Market Regulation

“Market analysis to assess the quality of every insurer’s conduct in the marketplace, uniformity, and interstate collaboration ... the goal of the market regulatory enhancements is to create a common set of standards for a uniform market regulatory oversight program that will include all states.”

III. Speed-to-Market for Insurance Products

“Interstate collaboration and filing operational efficiency reforms ... state insurance commissioners will continue to improve the timeliness and quality of the reviews given to insurers’ filings of insurance products and their corresponding advertising and rating systems.”

IV. Producer Licensing

“Uniformity of forms and process ... the NAIC’s broad, long-term goal is the implementation of a uniform, electronic licensing system for individuals and business entities that sell, solicit or negotiate insurance.”

V. Insurance Company Licensing

“Standardized filing and baseline review procedures...the NAIC will continue to work to make the insurance company licensing process for expanding licensure as uniform as appropriate to support a competitive insurance market.”

VI. Solvency Regulation

“Deference to lead states ... state insurance regulators have recognized a need to more fully coordinate their regulatory efforts to share information proactively, maximize technological tools, and realize efficiencies in the conduct of solvency monitoring.”

VII. Change In Insurance Company Control

"Streamline the process for approval of mergers and other changes of control."

NAIC members understand these goals present difficult challenges. However, with the active support and participation of governors and state legislators, and other law and policymakers, as well as industry and consumer advocates, we are confident NAIC member states will achieve these goals.

Insurance is a Complex Commercial Product that Demands Local Regulation

Paying for insurance products is one of the largest consumer expenditures of any kind for most Americans. Figures compiled by the NAIC show that an average family can easily spend a combined total of \$4,500 each year for auto, home, life, and health insurance coverage. This substantial expenditure – often required by law or business practice – is typically much higher for families with several members, more than one car, or additional property to insure. Consumers clearly have an enormous financial and emotional stake in making sure insurers keep the promises they make to us.

Protecting insurance consumers in a world of hybrid institutions and products must start with a basic understanding that insurance is a different business than banking and securities. Insurance is a commercial product based upon subjective business decisions such as these: Will an insurance policy be offered to a consumer? At what price? What are the policy terms and conditions? Is a claim filed by a policyholder valid? If so, how much should the customer be paid under the policy terms? All of these subjective business decisions add up to one absolute certainty: Insurance products can generate a high level of consumer backlash and customer dissatisfaction that requires a higher level of regulatory resources and responsiveness.

As regulators of insurance, state governments are responsible for making sure the expectations of American consumers – including those who are elderly or low-income – are met regarding financial safety and fair treatment by insurers. State insurance commissioners are the public officials who are appointed or elected to perform this consumer protection function. Nationwide in 2002, we employed more than 13,000 regulatory personnel and spent \$947 million to be the watchful eyes and helping hands on

consumer insurance problems. We helped consumers collect tens of millions of dollars in claims payments. The states also maintain a system of financial guaranty funds that cover personal losses of consumers in the event of an insurer insolvency.

It is important for Congress to note that the entire state insurance system is authorized, funded, and operated at absolutely no cost to the federal government.

There have been charges from some industry groups that the state regulatory system is inefficient and burdensome, and that a single federal regulator would be better. However, the NAIC and its members do not believe the consumers we serve each day think we are inefficient or burdensome when compared to the agencies and departments of the federal government. During 2001, we handled approximately 3.6 million consumer inquiries and complaints regarding the content of their policies and their treatment by insurance companies and agents. Many of those calls were resolved successfully at little or no cost to the consumer.

Unlike banking and securities, insurance policies are inextricably bound to the separate legal systems of each state. The policy itself is a contract written and interpreted under the laws of each state. When property, casualty, and life claims arise, their legitimacy and amounts must be determined according to individual state legal codes. Consequently, the constitutions and statute books of every state are thick with language laying out the rights and responsibilities of insurers, agents, policyholders, and claimants. State courts have more than 100 years experience interpreting and applying these state laws and judgments.

There is no way the federal government could possibly replicate the specific expertise of state legislatures, regulators, and courts to successfully interpret the contractual and tort laws of 50 states and the District of Columbia. Moreover, there is no reason for the federal government to do so when the states have a specific modernization plan and timetable to get the job done.

Federal Legislation Must Not Undermine State Modernization Efforts

The NAIC and its members believe Congress must be very careful in considering potential federal legislation to achieve modernization of insurance regulation in the United States. Even well-intended and seemingly benign federal legislation can have a substantial adverse impact on existing state laws and regulations designed to protect insurance consumers. Because federal law preempts conflicting state laws under the United States CONSTITUTION, hastily drafted or vague federal laws can easily undermine or negate important state legal protections for American consumers.

When Congress passed the Gramm-Leach-Bliley Act (GLBA) in 1999, it acknowledged once again that states should regulate the business of insurance in the United States, as set forth originally in the McCarran-Ferguson Act. There was a careful statutory balancing of regulatory responsibilities among federal banking and securities agencies and state insurance departments, with the result that federal agencies would not be involved in making regulatory determinations about insurance matters.

Even though Congress tried very hard in GLBA to craft language that would not unnecessarily preempt state laws, there have already been disagreements about the extent to which federally-chartered banks may conduct insurance-related activities without complying with state laws. Under GLBA, no state law may “prevent or significantly interfere” with the ability of a federally-chartered bank to conduct insurance-related business permitted by GLBA. Federally-chartered banks, with support from OCC, are aggressively asserting their perceived rights under GLBA to preempt important state consumer protections and conduct insurance-related business unhindered by state laws. The limited entry of federally-chartered banks into insurance has thus become a source of uncertainty, dispute and an un-level playing field, despite the best efforts of Congress to avoid this very result.

We fully expect that creating a federal charter for insurers, along with its large, complex, and costly federal regulatory structure, will cause far greater problems for states and

insurance regulation in general than those resulting from the GLBA provisions dealing with banks. Federally-chartered insurers would certainly insist state laws involving solvency and market conduct cannot “prevent or significantly interfere” with their federally-granted powers to conduct insurance business anywhere in the United States. A federal insurance charter with its associated laws and regulations must necessarily parallel every aspect of existing state laws and regulations, meaning potential conflicts between state and federal laws will likely occur across the board. The result would be years of protracted, costly litigation, as well as market and regulatory confusion that will benefit the legal community rather than insurance providers and consumers.

One of the great strengths of state insurance regulation is the fact it is rooted in other state laws that apply when insurable events occur. The NAIC urges Congress to avoid undercutting state authority in considering any federal legislation that would preempt important consumer protections or create a federal insurance charter. Federal laws that appear simple on their face can have devastating consequences for state insurance departments trying to protect the public.

The Impact of Federal Chartering on State Regulation Will Not Be “Optional”

Some industry representatives have said a federal charter merely adds an optional choice to the insurance regulatory system in the United States, and that it would not seriously affect the existing state system. In America’s heartland, folks might refer to such claims as “hogwash.” A federal charter may be optional for an insurer choosing it, but the negative impact of federally-regulated insurers will not be optional for consumers, producers, state-chartered insurers, state governments, and local taxpayers who are affected, even though they have little or no real say in the choice of a federal charter.

Let’s be clear about the impact of a federal insurance regulator upon state regulation and our ability to protect consumers: The federal government is not an equal regulatory partner because it can preempt state laws and regulations. This simple fact contradicts the very foundation of insurance in the United States; because insurance products are

uniquely intertwined and dependent upon state law for everything from underwriting standards, to pricing, to claims procedures, to legal resolution of disputes. There is no logical or practical way to divorce insurance regulation from the state laws that give rise to we consumers' insurance products.

Despite our different sizes, geography, and market needs, states work together through the NAIC as legal equals under the present system. We find solutions as a peer group through extensive discussion and debate, give-and-take and mutual respect, knowing that no single state can force its own will over the valid concerns and objections of other states. Keeping in mind the original purpose of regulation is to protect all of us consumers, we believe this participatory democracy and state decision-making, based upon the political and business realities of local markets, is a major strength of the state-based system for protecting our fellow consumers and regulating insurers and agents.

A federal insurance regulator would not be just another member of NAIC. Instead, it would be a super-agency with power to intervene and overrule every state government and territory under United States jurisdiction. The local needs and wants of citizens protected under state laws would be subjugated to the national agenda of insurers and regulators located "Inside-the-Beltway."

Ultimately, a federal charter and its regulatory system would result in at least two separate insurance systems operating in each state. One would be the current department of insurance established and operated under state law and government supervision. This system will continue responding directly to state voters and taxpayers, including the statewide election of the insurance commissioner in twelve states.

A second system would be a new federal regulator with zero experience or grounding in the local state laws that control the content of insurance policies, claims procedures, contracts, and legal rights of citizens in tort litigation. Nonetheless, this new federal regulator would undoubtedly have the power to preempt state laws and authorities that disagree with the laws that govern policyholders and claimants of state-chartered

insurers. At the very least, this situation will lead to consumer, market and regulatory overlap and confusion. At worst, it will lead to varying levels of consumer protection, perhaps even a “race to the bottom” to lower consumer protection standards, based upon whether an insurer is chartered by federal or state government.

Granting a government charter for an insurer means taking full responsibility for the consequences, including the costs of insolvencies and consumer complaints. The states have fully accepted these responsibilities by covering all facets of insurance licensing, solvency monitoring, market conduct, and handling of insolvent insurers. The NAIC does not believe Congress will have the luxury of granting insurer business licenses without also being drawn into the full range of responsibilities and hard-hitting criticism -- fair and unfair -- that go hand-in-hand with a government charter to underwrite and sell insurance. Furthermore, we doubt states will be willing to accept responsibility for the mistakes or inaction of a federal regulator by including federal insurers under state guaranty funds and other important, proven consumer protection laws.

Conclusion

The system of state insurance regulation in the United States has worked well for 125 years. State regulators understand that protecting America’s insurance consumers is our first responsibility. We also understand commercial insurance markets have changed, and that modernization of state insurance standards and procedures is needed to facilitate less costly and less burdensome regulatory compliance for insurers and producers.

We respectfully request Congress and insurance industry participants to work with us to implement the specific improvements set forth in state regulators’ ***A Reinforced Commitment: Insurance Regulatory Modernization Action Plan*** through the state legislative system. This is the only practical, workable way to achieve necessary changes quickly in a manner that preserves the state consumer protections we consumers demand. This state-based regulatory reform approach far exceeds having a highly-politicized “insurance czar” in Washington, D.C., along with the huge, costly, isolated federal

bureaucracy that will accompany it. This state-based reform track rewards the citizens and consumers in each state by giving us necessary control over important aspects of insurance and claims procedures that affect our and our families' financial security in the communities where we live.

The NAIC and its member states have fully cooperated over the years with important inquiries by Congress into the adequacy of the state regulatory system. We believe these inquiries have been productive, and have clearly demonstrated why local and regional state regulation of insurance is the very best way to meet the demands of consumers for this unique financial product. We will continue to work with Congress and within state government to improve the national efficiency of state insurance regulation, while at the same time preserving our longstanding proven and successful dedication to protecting American consumers.

Insurance regulatory modernization and protection of our fellow insurance consumers are not, nor should they ever be, mutually exclusive notions. We can and must achieve both these important objectives.

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NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

**“A REINFORCED COMMITMENT: INSURANCE REGULATORY
MODERNIZATION ACTION PLAN”**

Update Status as of November 2003

I. Consumer Protection

An open process ... access to information and consumers' views ... our primary goal is to protect insurance consumers, which we must do proactively and aggressively, and provide improved access to a competitive and responsive insurance market.

The NAIC members will keep consumer protection as their highest priority by:

(1) Providing NAIC access to consumer representatives and having an active organized strategy for obtaining the highly valued input of consumer representatives in the proceedings of all NAIC committees, task forces, and working groups;

Update: To help ensure active and organized consumer representation, the NAIC provides funding for thirteen consumer representatives to participate in NAIC activities. The NAIC also formally recognizes four un-funded consumer representatives. Finally, the NAIC's Consumer Protections Working Group provides a formal structure for consumer issues.

(2) Developing disclosure and consumer education materials, including written and visual consumer alerts, to help ensure consumers are adequately informed about the insurance market place, are able to distinguish between authorized and unauthorized insurance products marketed to them, and are knowledgeable about state laws governing those products;

Update: The NAIC's Unauthorized Media Outreach Subgroup adopted the following recommendations during the NAIC Fall National Meeting:

1. The subgroup recommends the NAIC “Get Smart Week” highlight unauthorized entity operations;

2. The subgroup recommends the NAIC establish a centralized repository to facilitate the sharing of states' articles, press releases and media outreach efforts regarding unauthorized entities;
3. The subgroup recommends the completion of a Fiscal Impact Statement to pursue NAIC funding for a more detailed and on-going media outreach campaign;
4. The subgroup recommends NAIC staff survey the states to determine state restrictions regarding funding from third parties for consumer education efforts; and
5. The subgroup recommends the incorporation of educational materials regarding unauthorized entities into states' pre-licensing and continuing education requirements for producers.

The implementation of these initiatives will begin in late 2003 and continue through 2004.

(3) Providing an enhanced Consumer Information Source (CIS) as a vehicle to ensure consumers are provided access to the critical information they need to make informed insurance decisions;

Update: The CIS provides consumers with a means for obtaining complaint trends on insurance companies and file complaints with the appropriate state insurance department. The most recent enhancement to the CIS was the posting of key financial information designed to provide the average consumer with an easier way to view and understand important financial information about insurance companies. The Consumer Protections Working Group continues to monitor the CIS to ensure additional information is made available as necessary.

(4) Reviewing and assessing the adequacy of consumer remedies, including state arbitration laws and regulations, so that the appropriate forums are available for adjudication of disputes regarding interpretation of insurance policies or denials of claims; and

Update: The Consumer Protections Working Group held two public hearings in 2003 to review and assess the adequacy of state arbitration laws and regulations. The working group will make its final assessment and recommendations on this issue during the NAIC Winter National Meeting in December 2003. The Consumer Protections Working Group and the Consumer Liaison Committee will continue to serve as the appropriate forums for discussing and assessing consumer remedies.

(5) Developing and reviewing consumer protection model laws and regulations to address consumer protection concerns.

Update: The Consumer Protections Working Group oversees this effort as necessary.

II. Market Regulation

Market analysis to assess the quality of every insurer's conduct in the marketplace, uniformity, and interstate collaboration ... the goal of the market regulatory enhancements is to create a common set of standards for a uniform market regulatory oversight program that will include all states.

The NAIC has established market analysis, market conduct, and interstate collaboration as the three pillars on which the states' enhanced market regulatory system will rest. The NAIC recognizes that the marketplace is generally the best regulator of insurance-related activity. However, there are instances where the market place does not properly respond to actions that are contrary to the best interests of its participants. A strong and reasonable market regulation program will discover these situations, thereby allowing regulators to respond and act appropriately to change company behavior.

Market Analysis

While all states conduct market analysis in some form, it is imperative that each state have a formal and rigorous market analysis program that provides consistent and routine reports on general market problems and companies that may be operating outside general industry norms. To meet this goal:

- (1) Each state will produce a standardized market regulatory profile for each "nationally significant" domestic company. The creation of these profiles will depend upon the collection of data by each state and each state's full participation in the NAIC's market information systems and new NAIC market analysis standards; and

Update: The Market Information Systems Working Group (MAWG) is reviewing the current data codes, reporting structure and reports available from the NAIC's market information systems. The NAIC continues to encourage full state participation in all of the market information systems (Regulatory Information Retrieval Systems, Complaint Database System, Special Activities Database and Exam Tracking System). Based upon the information contained in these databases, NAIC staff is developing automated programs that will generate standardized market regulatory profiles, which will include the following 5-year information for each company: (1) state specific premium volume written, (2) modified financial summary profile, (3) complaints index report, (4) regulatory actions report, (5) special activities report, (6) closed complaints report, (7) exam tracking systems summary, (8) modified IRIS ratios, (9) defense const against reserves information and (10) Schedule T information. While some of this information can already be generated, the ability to

generate a full report of this information should be available by March 1, 2004.

(2) Each state will adopt uniform market analysis standards and procedures and integrate market analysis with other key market regulatory functions.

Update: The NAIC is in the process of developing a Market Analysis Handbook, which is scheduled for adoption at the NAIC Winter National Meeting in December 2003. The guidelines in this handbook will provide states with uniform market analysis, standards, and procedures, which will integrate market analysis with other regulatory functions. The purpose of the market analysis handbook is to identify data and other information that is available to regulators, and provide guidance on how that data can be used to target the most significant market problems. In addition to helping identify potential problems, the handbook will help states develop a more detailed understanding of the marketplace to target their regulatory resources more efficiently. If used consistently and uniformly by the states, the handbook also should facilitate interstate collaboration by giving states a common baseline of knowledge from which to pursue collaborative actions.

The market conduct annual statement is a pilot project designed to determine whether a market conduct annual statement could serve as a market analysis tool that all states could use to review market activity of the entire insurance marketplace consistently and identify companies whose practices are outside normal ranges. If the pilot is a success, this will be a tool to help states more effectively target market regulatory efforts. By using common data and analysis, states would have a uniform method of comparing companies' performance not only within their respective states, but also across the various states, thus providing enhanced opportunities for coordinating market regulatory efforts. This increased analysis, targeting, and coordination should result in fewer duplicative regulatory efforts. As the statement develops, states should be able to reduce the number of state-specific data calls and collect data about claims, non-renewals and cancellations, replacement-related activity and complaints on an industry-wide basis.

In the pilot, information is being collected for personal lines, life and annuity products. If a company's performance appears to be unusual as compared to the industry, states will undertake further review of that company. The additional review may range from calling the company for further information to pursuing further analysis or conducting an examination.

In 2002, nine pilot states (CA, IL, MD, MO, NE, OH, OR, PA and WI) began collecting data from life insurers. The life data has now been

received and analyzed. Based upon this analysis, specific companies have been identified for additional scrutiny and an appropriate regulatory response.

The pilot states also are working with P&C insurers. P&C insurers were required to submit data for the period from January 1, 2003 through June 30, 2003 by September 1, 2003. Assuming there are no data quality issues, the pilot states will complete their analysis of the data by November 2003. During the NAIC 2003 Winter National Meeting in December 2003, the pilot states will discuss their results for the property and casualty industry, identify common companies of concern and propose coordinated responses where appropriate.

Market Conduct

States will also implement uniform market conduct examination procedures that leverage the use of automated examination techniques and uniform data calls; and

(1) States will implement uniform training and certification standards for all market regulatory personnel, especially market analysts and market conduct examiners; and

Update: The NAIC currently offers training on the Market Conduct Examiners Handbook. In 2004, the NAIC will offer a new program addressing market analysis techniques. Additional detail regarding uniform training and certification standards will be developed in 2004.

(2) The NAIC's Market Analysis Working Group will provide the expertise and guidance to ensure the viability of uniform market regulatory oversight while preserving local control over matters that directly affect consumers within each state.

Update: The Market Analysis Working Group (MAWG) is already a functioning group with draft protocols to be followed for the coordination and collaboration of market regulatory intervention. These protocols will be further refined in 2003 and should be finalized in early 2004. MAWG is analogous to the NAIC's Financial Analysis Working Group, and will continue to serve as the focal point for the coordination of market regulatory efforts while preserving local control for matters that directly affect consumers within each state.

Interstate Collaboration

The implementation of uniform standards and enhanced training and qualifications for market regulatory staff will create a regulatory system in which states have the confidence to rely on each other's regulatory efforts. This reliance will create a market regulatory system of greater domestic deference, thus allowing individual states to

concentrate their market regulatory efforts on issues that are unique to their individual market place conditions.

Update: To help minimize variations in market conduct examinations so that states can rely on each other's findings, the NAIC adopted the *Market Conduct Uniform Examination Outline*. This outline, which was developed in 2002, focuses on the following four areas: (1) exam scheduling, (2) pre-exam planning, (3) core examination procedures and (4) exam reports. Forty of the fifty-five jurisdictions self-certified compliance with two of the four uniform examination areas in 2002. Thirty-two states have self certified compliance with all four uniform examination areas in 2003. The goal for 2003 is to have at least 40 states certify compliance with all four areas of exam uniformity and develop a process for resolving complaints about certifications.

- (1) Each state will monitor its "nationally significant" domestic companies on an on-going basis, including market analysis and appropriate follow up to address any identified problems;

Update: As discussed above, company profile templates are being developed to provide a baseline for monitoring company activity. The Market Analysis Handbook contains a spectrum of regulatory responses that might be initiated. For example, the handbook identifies responses that could range from consumer outreach and education to a desk audit to an on-site examination.

- (2) Market conduct examinations of "nationally significant" companies performed by a non-domestic state will be eliminated unless there is a specific reason that requires a targeted market conduct examination; and

Update: States are moving toward targeted examinations and coordinating their efforts through MAWG.

- (3) The Market Analysis Working Group will assist states to identify market activities that have a national impact and provide guidance to ensure that appropriate regulatory action is being taken against insurance companies and producers and that general market issues are being adequately addressed. This peer review process will become a fundamental and essential part of the NAIC's market regulatory system.

Update: To help facilitate the coordination of regulatory efforts, the NAIC's Exam Tracking System (ETS) was enhanced in 2002 to make the reporting and sharing of market conduct examination information easier. As of March 2003, 26 states had entered examination information for over 400 companies into ETS. The NAIC has been analyzing this information to identify multiple exam notifications for the same companies. At the 2003 NAIC Summer National Meeting, the NAIC staff provided a list of

companies with multiple examinations scheduled, and the states shared their respective exam plans and concerns about the identified companies. Where overlap was noted, a lead state was designated to coordinate efforts. Since then, regulators have continued to discuss common concerns and coordinate their efforts. With increased use of ETS and regular opportunities for states to share information, improved coordination of exam efforts is well underway.

Forty states are currently participating or have participated in at least one new collaborative market conduct examination during 2003. Based upon these efforts, the NAIC's Market Analysis Working Group is now developing formalized guidelines and protocols for collaborating on regulatory efforts.

III. "Speed-to-Market" for Insurance Products

Interstate collaboration and filing operational efficiency reforms ... state insurance commissioners will continue to improve the timeliness and quality of the reviews given to insurers' filings of insurance products and their corresponding advertising and rating systems.

Insurance regulators have embarked on an ambitious 'Speed-to-Market Initiative' which covers the following four main areas:

- (1) Integration of multi-state regulatory procedures with individual state regulatory requirements;
- (2) Encouraging states to adopt regulatory environments that place greater reliance on competition for commercial lines insurance products;
- (3) Full availability of a proactively evolving System for Electronic Rate and Form Filing (known as 'SERFF') that includes integration with operational efficiencies (best practices) developed for the achievement of speed-to-market goals; and
- (4) Development and implementation of an interstate compact to develop uniform national product standards and provide a central point of filing.

Update: To demonstrate that states are up to the challenge of providing speed to market for insurance products without sacrificing adequate consumer protection, a system of measurement is needed. NAIC has developed a set of uniform metrics that rely on the four operational efficiencies listed above. To date approximately 20 jurisdictions have reported preliminary information to the NAIC. The Action Plan establishes a goal of 2008 for universal use; however, those working on the project believe most jurisdictions will implement filing metrics long

before that date. It should be noted that SERFF has the necessary counting and reporting framework for both paper and electronic product filings.

Integration of Multi-state Regulatory Procedures

It is the goal that all state insurance departments will be using the following regulatory tools by December 31, 2008:

(1) Review standards checklists for insurance companies to verify the filing requirements of a state before making a rate or policy form filing;

Update: The review standards checklists provide a means for insurance companies to verify the filing requirements of a state before making a rate or policy form filing. The checklists contain information regarding specific state statutes, regulations, bulletins or case law that pertain to insurance issues. Currently, 45 states have developed and posted Review Standards Checklists to their state websites. All insurers may access the information for all states via the NAIC web site.

States report that insurers taking advantage of this regulatory modernization have found the likelihood for successfully submitting a filing increases dramatically, vastly improving speed to market for insurers. The remaining states expect to complete their checklists and have them on-line by June 2004.

(2) Product requirements locator tool, which is already in use, will be available to assist insurers to locate the necessary requirements of the various states to use when developing their insurance products or programs for one or multiple-state markets;

Update: The product requirements locator tool is available to assist insurers in locating the necessary requirements of various states which must be used when developing insurance products for one or more states. This program allows someone to query a searchable NAIC database by product (i.e. auto insurance), requirement (i.e. cancellation statute), or state to determine what is needed to develop an insurance product or make a filing in one specific state or many states, for one type of insurance or for many types of insurance. Sixteen states have populated the property and casualty product requirements locator tool as of October 2003. The life product requirements locator tool is under development. The Action Plan establishes a goal of 2008 for universal use; however, those working on the project believe most jurisdictions will implement this long before that date.

(3) Uniform product coding matrices, already developed, will allow uniform product coding so that insurers across the country can code their policy filings using a set of universal codes without regard for where the filing is made; and

Update: Product coding matrices have been developed to provide a uniform product naming convention and corresponding product coding, so that insurers across the country can seamlessly communicate with insurance regulators regarding product filings. This key feature forms the basis for counting and measuring speed to market for insurance products. A survey is underway to determine how many states are using these tools. The Action Plan establishes a goal of 2008 for universal use. However, those working on the project believe most jurisdictions will implement this long before that date.

(4) Uniform transmittal documents to facilitate the submission of insurance products for regulatory review. The uniform transmittal document contains information that is necessary to track the filing through the review process and other necessary information. The goal is that all states adopt it for use on all filings and databases related to filings by December 31, 2003.

Update: Uniform transmittal documents were developed to permit uniform product coding, so that insurers across the country can code their policy filings using a set of universal codes without regard for where the filing is made. Instead of using the numerous codes developed historically by each individual state for its own lines of insurance, a set of common codes have been developed, using the annual statement blanks as a guideline, in an effort to eliminate the need for insurance companies to keep separate lists of codes for each state insurance department's lines of insurance. A survey is underway to determine the extent of their use. The Action Plan establishes a goal of 2008 for universal use; however, those working on the project believe most jurisdictions will implement this long before that date.

Adoption of Regulatory Frameworks that Place Greater Reliance on Competition

States will continue to ensure that the rates charged for products are actuarially sound and are not excessive, inadequate or unfairly discriminatory. To the extent feasible, for most markets, states recognize that competition can be an effective element of regulation. While recognizing that state regulation is best for insurance consumers, it also recognizes that state regulation must evolve as insurance markets change.

Update: The NAIC has adopted a model law that places greater reliance on competition for commercial lines insurance products. It is actively encouraging states to consider it; however, hard market conditions in the property and casualty insurance markets in many states make it difficult for state legislators to support a relaxing of rate regulatory requirements in a time when prices are dramatically rising for businesses seeking coverage.

Full availability of a proactively evolving System for Electronic Rate and Form Filing (SERFF)

SERFF is a one-stop, single point of electronic filing system for insurance products. It is the goal of state insurance departments to be able to receive product filings through SERFF for all major lines and product types by December 2003. We will integrate all operational efficiencies and tools with the SERFF application in a manner consistent with our Speed-to-Market Initiatives and the recommendations of the NAIC's automation committee.

Update: SERFF is the ultimate answer to speed to market concerns of insurers. All 50 states, the District of Columbia, and Puerto Rico are SERFF ready. Insurers that have chosen to use SERFF are experiencing an average 17-day turn-around time for the entire filing submission and review cycle. SERFF offers functionality that can enable all regulatory jurisdictions to accept electronic rate and form filings from insurance companies for all lines of insurance and product types. There are 50 states accepting filings for the property/casualty line of business, 42 of which are accepting all major lines. There are 48 states accepting life filings, 39 of which are accepting all major lines, and 41 states are currently accepting health filings via SERFF, 34 of which are accepting all major lines. SERFF enables states to include all operational efficiency tools such as the review standards checklists, requirements included in the product requirements locator, and uniform transmittal documents to facilitate an efficient electronic filing process. There are over 950 insurance companies licensed to use SERFF and over 55,000 filings have been submitted via SERFF thus far in 2003. Estimates suggest that 75,000 filings are expected this year with between 125,000 and 150,000 expected in 2004. The NAIC has estimated that the total universe of filings is approximately 750,000 total filings in an average year.

Implementation of an Interstate Compact

Many products sold by life insurers have evolved to become investment-like products. Consequently, insurers increasingly face direct competition from products offered by depository institutions and securities firms. Because these competitors are able to sell their products nationally, often without any prior regulatory review, they are able to bring new products to market more quickly and without the expense of meeting different state requirements. Since policyholders may hold life insurance policies for many years, the increasing mobility in society means that states have many consumers who have purchased policies in other states. This reality raises questions about the logic of having different regulatory standards among the states.

The Interstate Insurance Product Regulation Compact will establish a mechanism for developing uniform national product standards for life insurance, annuities, disability income insurance, and long-term care insurance products. It will also create a single point

to file products for regulatory review and approval. In the event of approval, an insurer would then be able to sell its products in multiple states without separate filings in each state. This will help form the basis for greater regulatory efficiencies while allowing state insurance regulators to continue providing a high degree of consumer protection for the insurance buying public.

State insurance regulators will work with state law and policymakers with the intent of having the Compact operational in at least 30 states or states representing 60% of the premium volume for life insurance, annuities, disability income insurance and long-term care insurance products entered into the Compact by year-end 2008.

Update: The NAIC adopted draft model legislation for the Interstate Insurance Product Regulation Compact (the “Compact”) in December 2002. Working with the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL), as well as the American Council of Life Insurers (ACLI), the NAIC adopted technical amendments to the model legislation in July 2003. The NCSL and NCOIL have now endorsed the Compact.

In early 2003, the model legislation was introduced in three states, Alabama, Indiana and Iowa. Iowa became the first state to enact the Compact. It is anticipated that legislation to enact the Compact will be introduced in 10 to 15 states during their next legislative sessions.

As part of the effort of state insurance regulators to develop national product standards for life insurance, annuity, disability income insurance, and long-term care insurance products, the NAIC has created the Interstate Compact National Standards Working Group. The primary goal of this working group is to begin developing high-quality national product standards while the Compact is being implemented in the states. Not only will the product standards developed by this working group serve as a foundation for those standards developed through the Compact, they will also serve as an example to all that strong consumer protections will be the highest priority under the Compact.

Just prior to the NAIC’s Fall National Meeting in September, the working group released for comment two sets of draft product standards covering term life insurance and variable annuities. It is anticipated that final adoption of these draft standards will occur either at the NAIC’s Winter National Meeting or shortly thereafter. Additionally, the NAIC is beginning to work on draft bylaws and operating procedures for the Compact.

IV. Producer Licensing Requirements

Uniformity of forms and process ... the NAIC's broad, long-term goal is the implementation of a uniform, electronic licensing system for individuals and business entities that sell, solicit or negotiate insurance.

The states have satisfied GLBA's licensing reciprocity mandates and continue to view licensing reciprocity as an interim step. Our goal is uniformity.

Building upon the regulatory framework established by the NAIC in December of 2002, the NAIC's members will continue the implementation of a uniform, electronic licensing system for individuals and business entities that sell, solicit or negotiate insurance. While preserving necessary consumer protections, the members of the NAIC will achieve this goal by focusing on the following five initiatives:

- (1) Development of a single uniform application;

Update: The Producer Licensing Working Group adopted uniform individual and business entity applications to be used for both resident and non-resident licensing. The full NAIC membership will consider the adoption of these applications during the NAIC Winter National Meeting in December 2003.

- (2) Implementation of a process whereby applicants and producers are required to satisfy only their home state pre-licensing education and continuing education (CE) requirements;

Update: This system of CE reciprocity is already established and working. The NAIC continues to monitor this system to ensure CE reciprocity remains in place.

- (3) Consolidation of all limited lines licenses into either the core limited lines or the major lines;

Update: The NAIC has adopted definitions for the following core limited lines, and has included these limited lines as part of the uniform applications: Car Rental, Credit, Crop, Travel and Surety. States are now in the process of consolidating all their limited lines into these core categories. This process will continue through the 2004 state legislative sessions.

- (4) Full implementation of an electronic filing/appointment system; and

Update: Thirty-eight states and the District of Columbia have implemented an electronic filing/appointment system. Six states do not require appointments. The NAIC and its affiliate, the National Insurance

Producer Registry, continue to work with the remaining states to implement an electronic filing/appointment system.

- (5) Implementation of an electronic fingerprint system. In accomplishing these goals, the NAIC recognizes the important and timely role that state and federal legislatures must play in enacting necessary legislation.

Update: The NAIC developed a draft Authorization for Criminal History Record Check Model Act, and continues to have informal discussions about access to the FBI with representatives of the FBI. While states are currently able to obtain access to the FBI database through the adoption of proper legislative authority, Federal law prohibits states from sharing criminal history record information with each other. The NAIC continues to seek solutions to resolve the prohibition against the sharing of information.

National Insurance Producer Registry (NIPR)

Through the efforts of NIPR, major steps have been taken to streamline the process of licensing non-residents and appointing producers, including the implementation of programs that allow electronic appointments and terminations. Other NIPR developments helping to facilitate the producer licensing and appointment process include:

Update: There are 25 states and the District of Columbia accepting electronic non-resident licensing applications through NIPR with the goal of 35 by December 31, 2003, and 32 states is a very realistic estimate at this time.

- (1) Use of a National Producer Number, which is designed to eliminate sole dependence on using social security numbers as a unique identifier;

Update: There are 15 states currently using the NPN as the unique identifier on the database, with a goal of 27 states having NPN implemented by December 31, 2003.

- (2) Acceptance of electronic appointments and terminations or registrations from insurers;

Update: There are 38 states and the District of Columbia accepting electronic appointments and terminations through NIPR's Gateway. Six states do not require appointments. The goal is to achieve 50 states by December 31, 2003.

- (3) Use of Electronic Funds Transfer for payment of fees. The goal is to have full state implementation of the services provided by NIPR by December of 2006.

Update: There are seven states using Electronic Funds Transfer for payment of fees, with a goal of 13 by December 31, 2003.

V. Insurance Company Licensing

Standardized filing and baseline review procedures...the NAIC will continue to work to make the insurance company licensing process for expanding licensure as uniform as appropriate to support a competitive insurance market.

Except under certain limited circumstances, insurance companies must obtain a license from each state in which they plan to conduct business. In considering licensure, state regulators typically assess the fitness and competency of owners, boards of directors, and executive management, in addition to the business plan, capitalization, lines of business, market conduct, etc. The filing requirements for licensure vary from state to state, and companies wishing to be licensed in a number of states have to determine and comply with each state's requirements. In the past three years, the NAIC has developed, and all states have agreed to participate in, a Uniform Certificate of Authority Application process that provides significant standardization to the filing requirements that non-domestic states use in considering the licensure of an insurance company.

Update: Presently, all 50 states and the District of Columbia accept the NAIC's Uniform Certificate of Authority Application (UCAA) from insurers desiring to do business their state. The UCAA has been under development for sometime and work continues to eliminate a few remaining state specific application filing requirements. However, many of these additional requirements come from state statute or regulation in a small number of states.

In its commitment to upgrade and improve the state-based system of insurance regulation in the area of company licensing, the NAIC will:

(1) Maximize the use of technology and pre-population of data needed for the review of application filings;

Update: Internal NAIC staff meetings are underway to re-write much of the existing computer system. The goal of the re-write is to create a more automated, user-friendly system for companies. In this regard, the NAIC Financial Data Repository holds a significant amount of data/information that insurers include on the UCAA. By pre-populating much of the UCAA, the time and effort for making an application should be dramatically reduced. Furthermore, re-programming will occur to streamline the data/information inputs required. As noted, planning and design work is underway this quarter. We expect that much of the work to achieve these goals will be accomplished by the second quarter of 2004.

(2) Develop a Company Licensing Model Act to establish standardized filing requirements for a license application and to establish uniform licensing standards; and

Update: The NAIC is undertaking this work to further unify the states. As noted above, there are some additional filing requirements to the UCAA in certain states. By creating an NAIC model and pushing states to adopt it, absolute uniformity can be achieved. In addition, through such a model, states will be more uniform in their standards for issuing or denying a certificate of authority. This will add transparency and more certainty to the company licensing process. This work will likely be initiated in the second quarter of 2004, once substantial progress is made in developing baseline and best practices for reviewing UCAA's. The Regulatory Modernization Action Plan calls for such a model to be ready by December 2004.

(3) Develop baseline licensing review procedures that ensure a fair and consistent approach to admitting insurers to the marketplace and that provide for appropriate reliance on the work performed by the domestic state in licensing and subsequently monitoring an insurer's business activity.

Update: The NAIC is planning to initiate this work early next year. It is expected that this element of the initiative will indirectly support the work outlined regarding a model act. This area is likely to be the most labor intensive as we are looking to "break new ground". While this work will proceed before work on a model act, we expect that by May 2004 the two efforts will converge.

As company licensing is adjunct to a solvency assessment, the members of the NAIC will consider expanding the Financial Regulation and Accreditation Standards Program to incorporate the licensing and review requirements as appropriate. This action will assure appropriate uniformity in company licensing and facilitate reciprocity among the states. As much of this work is well underway, the NAIC will implement the technology and uniform review initiatives, and draft the model act by December 2004.

Update: Once the work identified has been completed and the NAIC sees states conforming, the model and associated review procedures and licensing standards will be presented to the Financial Regulation Standards and Accreditation (F) Committee for consideration.

VI. Solvency Regulation

Deference to lead states ... state insurance regulators have recognized a need to more fully coordinate their regulatory efforts to share information proactively, maximize technological tools, and realize efficiencies in the conduct of solvency monitoring

Deference to “Lead States”

Relying on the concept of “lead state” and recognizing insurance companies by group, when appropriate, the NAIC will implement procedures for the relevant domestic states of affiliated insurers to plan, conduct and report on each insurer’s financial condition.

Update: Two years ago, the NAIC developed a comprehensive guidance paper on insurance holding company oversight. In conjunction with this effort, the NAIC developed a "lead state" framework under which a state or states were designated as "lead" for various group solvency oversight work (e.g., financial analysis, examinations, holding company filings/transactions etc). This framework is still in its development stages, but significantly more state coordination on solvency oversight has occurred since its creation. Through NAIC financial processes, as well as at the state level, this framework continues to be used to help ensure effective and efficient financial regulation.

Financial Examinations

In regard to financial examinations, many insurers are members of a group or holding company system that has multiple insurers and that may have multiple states of domicile. These affiliated insurers often share common management along with claims, policy and accounting systems, and participate in the same reinsurance arrangements. Requirements for coordination of financial examinations will be set forth in the NAIC *Financial Condition Examiners Handbook*. To allow time for the states to adjust examination schedules and resources, such coordination will be phased in over the next 5 years, with the goal of full adherence to the Handbook’s guidance for examinations conducted as of December 2008.

Update: This initiative aims to institutionalize the lead state framework and move boldly toward syncing on-site examinations of affiliated insurers. Much discussion on the effectiveness and efficiency of financial examinations has occurred during the past 2 years. Therefore, regulators working through the NAIC are well prepared to move forward with designing and implementing the requisite language in the NAIC Financial Condition Examiners Handbook. As this Handbook is an NAIC Accreditation Standard, the Financial Regulation Standards and Accreditation (F) Committee will consider these amendments in due course, which should occur by March 2005.

Insolvency Model Act

The NAIC will promote uniformity by reviewing the Insolvency Model Act, maximizing use of technology, and developing procedures for state coordination

of imminent insolvencies and guaranty fund coverage. The Financial Regulation Standards and Accreditation Committee will consider the requirements no later than January 1, 2008.

Update: The Insurer Receivership Model Act (IRMA) is the primary model act involved, since receivership often should be obtained while insurers are in hazardous financial condition before they become insolvent. Every state has adopted a version of an NAIC model act dealing with insurer receiverships, but many of these are based on versions from the 1930's (NAIC's version of a draft of the Uniform Insurers Liquidation Act in 1936) and the 1960-70's (NAIC Insurers Rehabilitation and Liquidation Model Act). The NAIC has been reviewing the IRMA to incorporate parts of the Uniform Receivership Law (URL) issued by the Interstate Insurance Receivership Compact Commission in 1998. Currently, the NAIC is finalizing the process of incorporating parts of the URL, and is also incorporating updates related to other recent issues. This review aims to ensure that IRMA reflects the current best practices for conducting statutory receiverships of insurers, and is an updated model that can be adopted in substantially similar form by all of the states. The current NAIC Accreditation Standard is that states must have a scheme for handling receiverships. The Financial Regulation Standards and Accreditation (F) Committee will consider an amendment to require enactments substantially similar to the IRMA in due course, which should occur by March 2006.

In regard to maximizing the use of technology, the NAIC has begun developing a Global Receivership Information Database (GRID) to better capture, analyze, and report information on insurer receiverships and the causes of hazardous financial condition and insolvency. The system should be in place in 2004. The NAIC will consider making the entry of data into the system a requirement for the Uniform Regulation Through Technology designation. Information captured by the GRID should provide measurements of receivership procedures that can be used to improve them.

In regard to developing procedures for state coordination of imminent insolvencies and guaranty fund coverage, the NAIC has begun drafting procedures for coordinating with state guaranty associations. Once work on the procedures has been completed and the NAIC sees states conforming, the procedures will be presented to the Financial Regulation Standards and Accreditation (F) Committee for consideration.

VII. Changes of Insurance Company's Control

Streamline the process for approval of mergers and other changes of control.

Coordination Using “Lead States”

Regulatory consideration of the acquisition of control or merger of a domestic insurer is an important process for guarding the solvency of insurers and protecting current and future policyholders. At the same time, NAIC members realize that these transactions are time sensitive and the process can be daunting when approvals must be obtained in multiple states. As a result, states will enhance their coordination and communication on acquisitions or mergers of insurers domiciled in multiple states by designing a system through which these multi-state reviews are coordinated by one or more “lead” states.

Update: As noted above (Section VI), regulators are in process of implementing the NAIC lead state framework.

Form A Database

Insurers are required to file for approval on documents referred to as Form A filings when mergers or acquisitions are being considered. The NAIC has created a database to track these filings so that this information is available to all state regulators. Usage will be monitored to ensure that all states use the application to improve coordination of Form A reviews and to alert state regulators to problem filings. The Form A Review Guide and Form A Review Checklist, which contain procedures to be utilized when reviewing a Form A Filing, will be enhanced and incorporated into the existing NAIC *Financial Analysis Handbook* as a supplement. NAIC members will work on amending the Accreditation Program to include the Form A requirements to further promote stronger solvency standards and state coordination, as well as an efficient process for our insurers. The Form A requirements will be targeted for incorporation into the Accreditation Program no later than January 1, 2007.

Update: The NAIC’s Form A Database, initially released in March 2002, was designed to alert states to Form A filings from the same or similar individuals or entities in other states. Efforts continue to educate and inform regulators on the use and benefits of this database system to the regulatory community. The benefits occur largely in the area of coordinating on common Form A filings and identifying acquiring parties who are suspicious.

Along with the NAIC's guidance paper on insurance holding companies, formal review programs were designed for the various holding company disclosures and registration filings, including Form A's. Beginning in December 2003, the Insurance Holding Company Working Group will revisit these forms for the purpose of developing a comprehensive program on Form A filings. The working group will focus initially on how to bring about more consistent communication on multi-state Form A filings. This program should be completed by the fall of 2004.

Integrate Policy Form Approval and Producer Licensing into the Merger and Acquisition Process

The NAIC members will develop procedures for the seamless transfer of policy form approvals and producer appointments to take place contemporaneously with the approval of mergers or acquisitions where appropriate. We will begin developing and testing these procedures through pilot programs in 2003 and fully incorporate them system wide by 2006.

Update: With regard to the integration of policy form approval and producer licensing into the M&A process, two pilot projects are underway to study how these two regulatory process are commonly handled by states. As this work is new, we expect much of 2004 will be needed to complete the research and to begin formulating an implementation plan.

* * *

Joint Resolution

**STATES AS THE SOLE REGULATORS
OF THE BUSINESS OF INSURANCE**

WHEREAS, protecting consumers and ensuring the safety and soundness of insurance companies operating in the United States have been the prime objectives of state insurance regulation for over 150 years; and

WHEREAS, the states have the sole authority to regulate the business of insurance as provided under the McCarran-Ferguson Act and as recently affirmed by the Gramm-Leach-Bliley Financial Services Modernization Act of 1999; and

WHEREAS, state insurance regulation has been successful and effective, and has continuously adapted to change in the marketplace including but not limited to the challenges of financial services modernization; and

WHEREAS, in responding to the Gramm-Leach-Bliley Financial Services Modernization Act, states already have successfully implemented reforms to meet the requirements of the law including, among other things, agent licensing reform and consumer financial privacy protections, and are working to develop and implement further efficiencies; and

WHEREAS, governors, state legislators, and insurance commissioners have acknowledged the need to streamline and simplify insurance regulation for the 21st century financial services marketplace and are enacting specific reforms to address differences in state laws and rules that can present obstacles to insurers, consumers' needs, and market place efficiencies; and

WHEREAS, some insurance companies and national associations representing insurers and banks support federal legislation to either establish one federal regulator of insurance or allow for dual federal and state insurance regulation; and

WHEREAS, if enacted by Congress, these proposals will bifurcate insurance regulation between the states and the federal government, undermining the state system of consumer protections and financial surveillance, as well as inevitably causing a loss of jobs, taxes, fees, and other vital and necessary state revenues needed to effectively regulate the insurance market and provide revenues to support residual market programs, such as high-risk pools.

NOW, THEREFORE BE IT RESOLVED, THAT the National Conference of State Legislatures (NCSL), the National Conference of Insurance Legislators (NCOIL), and the National Association of Insurance Commissioners (NAIC) are committed to maintaining the States as the sole regulators of the business of insurance, and continue to support state efforts to streamline, simplify and modernize insurance regulation; and

BE IT FURTHER RESOLVED, THAT the National Conference of State Legislatures (NCSL), the National Conference of Insurance Legislators (NCOIL), and the National Association of Insurance Commissioners (NAIC) will oppose any proposed Federal law that undermines this state authority, including allowing insurers the ability to obtain federal charters, or ceding any authority to federal agencies to regulate financial institutions involved in the business of insurance.

BE IT FURTHER RESOLVED, THAT a copy of this resolution shall be sent to the President of the United States, the Secretary of the Treasury, and all members of the United States Senate and the United State House of Representatives.



State Representative Kathleen Keenan, Vermont
President, National Conference of Insurance Legislators



State Representative Donna Stone, Delaware
Chair, Standing Committee on Financial Services
National Conference of State Legislatures



Mike Pickens, Commissioner of Insurance, Arkansas
President, National Association of Insurance Commissioners

THE COUNCIL OF STATE GOVERNMENTS
CSG GOVERNING BOARD/EXECUTIVE COMMITTEE

RESOLUTION ON
STATES AS THE SOLE REGULATORS
OF THE BUSINESS OF INSURANCE

- WHEREAS,** protecting consumers and ensuring the safety and soundness of insurance companies operating in the United States have been the prime objectives of state insurance regulation for over 150 years; and
- WHEREAS,** the states have the sole authority to regulate the business of insurance as provided under the McCarran-Ferguson Act and as recently affirmed by the Gramm-Leach-Bliley Financial Services Modernization Act of 1999; and
- WHEREAS,** state insurance regulation has been successful and effective, and has continuously adapted to change in the marketplace including but not limited to the challenges of financial services modernization; and
- WHEREAS,** in responding to the Gramm-Leach-Bliley Financial Services Modernization Act, states already have successfully implemented reforms to meet the requirements of the law including, among other things, agent licensing reform and consumer financial privacy protections, and are working to develop and implement further efficiencies; and
- WHEREAS,** governors, state legislators, and insurance commissioners have acknowledged the need to streamline and simplify insurance regulation for the 21st century financial services marketplace and are enacting specific reforms to address differences in state laws and rules that can present obstacles to insurers, consumers' needs, and market place efficiencies; and
- WHEREAS,** some insurance companies and national associations representing insurers and banks support federal legislation to either establish one federal regulator of insurance or allow for dual federal and state insurance regulation; and
- WHEREAS,** if enacted by Congress, these proposals will bifurcate insurance regulation between the states and the federal government, undermining the state system of consumer protections and financial surveillance, as well as inevitably causing a loss of jobs, taxes, fees, and other vital and necessary state revenues needed to effectively regulate the insurance market and provide revenues to support residual market programs, such as high-risk pools.

NOW, THEREFORE BE IT RESOLVED, THAT the Council of State Governments is committed to maintaining the States as the sole regulators of the business of insurance, and continue to support state efforts to streamline, simplify and modernize insurance regulation; and

BE IT FURTHER RESOLVED, THAT the Council of State Governments will oppose any proposed Federal law that undermines this state authority, including allowing insurers the ability to obtain federal charters, or ceding any authority to federal agencies to regulate financial institutions involved in the business of insurance.

BE IT FURTHER RESOLVED, THAT a copy of this resolution shall be sent to the President of the United States, the Secretary of the Treasury, and all members of the United States Senate and the United State House of Representatives.

Adopted this 26th Day of October, 2003, at the
CSG Annual State Trends and Leadership Forum
In Pittsburgh, Pennsylvania

Governor Mike Huckabee
2003 CSG President

Representative Daniel Bosley
2003 CSG Chair