2020 Mid-Year Meeting
Virtual Meeting

JOINT MEETING OF EXECUTIVE (EX) COMMITTEE
AND INTERNAL ADMINISTRATION (EX1) SUBCOMMITTEE

Meeting Summary Report

The Executive (EX) Committee and the Internal Administration (EX1) Subcommittee met in joint session July 14, 2020. The meeting was held in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC) and paragraph 6 (consultations with NAIC staff members) of the NAIC Policy Statement on Open Meetings. During this joint meeting, the Committee and Subcommittee:

1. Adopted its May 12 minutes.

2. Adopted the Internal Administration (EX1) Subcommittee’s May 20 minutes, which included the following action:
   a. Received an update on the Defined Benefit Plan portfolio as of March 31.
   b. Received an update on the NAIC long-term investment plan portfolio as of March 31.
   c. Approved a recommendation to replace one of the NAIC’s fund managers responsible for short-term bond funds.

3. Adopted the report of the Audit Committee, which met via conference call June 2 and received the 2019/2020 Service Organization Control (SOC) 1 and SOC 2 reports.

4. Received an update on the 2020 financial results and preliminary 2021 budget assumptions and approved extension of unused 2020 grant funds to the end of 2021.

5. Established a Special Committee on Race and Insurance.

6. Established the Climate & Resiliency (EX) Task Force and adopted its draft charges.

7. Received a System for Electronic Rate and Form Filing (SERFF) Assessment and directed NAIC staff to prepare and issue a request for proposal (RFP) to solicit proposals to help complete a “modernization pilot” and “Wave One” as recommended in the SERFF Assessment.

8. Approved Management’s recommendation to extend the residential mortgage-backed securities (RMBS)/commercial mortgage-backed securities (CMBS) modeling contract with BlackRock for another year.

9. Approved the release of the Economic Scenario Generator (ESG) fiscal for a two-week public review period prior to a final vote of the Executive (EX) Committee during a future meeting.

10. Approved a U.S. Department of Labor (DOL) Information Sharing Agreement.

11. Selected the meeting locations for the 2024 summer and fall national meetings: the 2024 Summer National Meeting will be held in Chicago, IL; and the 2024 Fall National Meeting will be held in Denver, CO.

12. Received the joint chief executive officer (CEO)/chief operating officer (COO) report.
EXECUTIVE (EX) COMMITTEE
May 12, 2020 / April 2, 2020 / February 13, 2020 / January 10, 2020

Summary Report

The Executive (EX) Committee met May 12, April 2, Feb. 13 and Jan. 10, 2020. These meetings were held in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings. During these meetings, the Committee:

1. Adopted the 2019 Fall National Meeting minutes of the Joint Meeting of the Executive (EX) Committee and Internal Administration (EX1) Subcommittee.
2. Adopted its April 2, Feb. 13 and Jan. 10 minutes.
3. Adopted the report of the NAIC Audit Committee.
4. Adopted the report of the Investment Committee.
5. Adopted the recommendation of the Life Actuarial (A) Task Force to delay the start of Principle-Based Reserving (PBR) Experience Data Reporting from 2020 to 2021.
6. Appointed Commissioner Vicki Schmidt (KS) and Director Bruce R. Ramge (NE) to serve on the National Insurance Producer Registry (NIPR) Board of Directors effective May 12.
7. Heard a report on a change in membership for the System for Electronic Rate and Form Filing (SERFF) Advisory Board. Andrea Davey (Athene Annuity and Life Company) will serve as the Life Insurance Representative on the SERFF Advisory Board.
8. Discussed the National Association of Registered Agents and Brokers (NARAB) Board recommendations.
10. Heard an update on the SERFF Assessment.
11. Heard an update on cybersecurity.
12. Discussed the status of the Mid-Year Roundtable and the Summer National Meeting.
13. Heard a joint chief executive officer (CEO)/chief operating officer (COO) report.
15. Received an update on the 2019 Year-End Financial Results.
16. Approved the fiscal impact statement for the Long-Term Care Insurance Data Call and authorized management to contract with a selected vendor.
17. Approved the fiscal impact statement for the SERFF Filing Review Tools Pilot.
18. Approved the following non-regulator appointments to the SERFF Advisory Board: Birny Birnbaum (Center for Economic Justice—CEJ) as the Consumer Representative; Theresa Boyce (Chubb Group) for Property & Casualty (P&C); Amanda Wheeler (LifeSecure Insurance Company) for Life Insurance; and Rachel Benton (Bright Health) for Health Insurance and Vice-Chair.
19. Appointed Director Chlora Lindley-Myers (MO) as Vice Chair of the 2020 Consumer Participation Board of Trustees.
20. Appointed Commissioner Mark Afable (WI) to serve on the NIPR Board of Directors effective Feb. 13.

21. Received an update confirming the committee structure changes: the Executive (EX) Committee disbanded the joint Long-Term Care Insurance (B/E) Task Force, the NAIC/State Government Liaison Committee, and the NAIC/Industry Liaison Committee; and the Executive (EX) Committee also removed the membership limit on the Life Actuarial (A) Task Force and the Health Actuarial (B) Task Force.

22. Approved the fiscal impact statement for the PBR Yearly Renewable Term Reinsurance Study.

23. Voted to release for public review and comment the Long-Term Care Insurance Data Call and Analysis fiscal impact statement.

24. Approved the debt restructure terms between the NAIC and Interstate Insurance Product Regulation Commission (Compact).

25. Appointed Florida, Idaho, Kentucky, Massachusetts, Missouri, Nebraska, Nevada, Ohio and Oklahoma as members of the NAIC 2020 Audit Committee.
REPORT OF THE EXECUTIVE (EX) COMMITTEE TASK FORCES

Financial Stability (EX) Task Force—The Financial Stability (EX) Task Force met Aug. 5 and took the following action: 1) adopted its Feb. 26, 2020, and 2019 Fall National Meeting minutes; 2) heard an update on Financial Stability Oversight Council (FSOC) developments; 3) adopted the report of the Liquidity Assessment (EX) Subgroup, which provides an update on its progress toward achieving its deliverables related to liquidity stress testing; 4) received an update from the Receivership and Insolvency (E) Task Force on its work to address the Financial Stability (EX) Task Force’s referral letter to undertake analysis relevant to the NAIC Macroprudential Surveillance Initiative; 5) heard an update on collateralized loan obligation (CLO) stress tests; 6) heard an update on the International Association of Insurance Supervisors (IAIS); 7) heard an update on the London Interbank Offered Rate (LIBOR); and 8) discussed exposure comments for the draft revisions to the Holding Company Model Law.

Government Relations (EX) Leadership Council—The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting. The Leadership Council meets weekly via conference call in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss federal legislative and regulatory developments affecting insurance regulation.

Innovation and Technology (EX) Task Force—The Innovation and Technology (EX) Task Force met Aug. 7 and took the following action: 1) adopted its 2019 Fall National Meeting minutes and July 23 minutes; 2) adopted its working group reports and heard a report on the activities of the Innovation and Technology State Contact Group; 3) discussed comments related to the Artificial Intelligence Principles (Principles) adopted by the Artificial Intelligence (EX) Working Group, accepted amendments and adopted the Principles (Attachment Three-A); 4) received an update from the Accelerated Underwriting (A) Working Group and heard presentations on use of algorithms in insurance and algorithmic auditing; 5) and heard an update on comments submitted related to the draft Unfair Trade Practices Act (#880) amended language pertaining to Section 4. H. specific to rebating and exposed language for another comment period ending Aug. 28.

The Artificial Intelligence (EX) Working Group met multiple times in 2020 and after publishing five draft principles and accepting comments from stakeholders, it adopted Artificial Intelligence Principles for the insurance industry during its June 30 meeting.

The Big Data (EX) Working Group met Aug. 4 and took the following action: 1) adopted its Dec. 7, 2019, minutes; 2) received an update from the Casualty Actuarial and Statistical (C) Task Force regarding its draft white paper on best practices for the review of predictive models and analytics filed by insurers to justify rates; 3) received an update on the work of the Accelerated Underwriting (A) Working Group; and 4) received an update on NAIC technical and nontechnical rate review trainings.

The Speed to Market (EX) Working Group met via conference call June 15, June 30 and July 15. During its June 15 meeting, the Working Group: 1) received an update on the SERFF Advisory Board and System for Electronic Rate and Form Filing (SERFF) metrics; 2) received an update from the Interstate Insurance Product Regulation Commission (Compact); 3) discussed SERFF state reports; and 4) adopted the suggestion to create a SERFF canned report for rate changes. During its June 30 meeting, the Working Group: 1) discussed suggestions for 2020 changes to the Life, Accident/Health, Annuity and Credit Uniform Product Coding Matrix (PCM) and Uniform Transmittal Document (UTD) effective Jan. 1, 2021. Two of the suggested changes were adopted: a) change the term “implementation date” to “effective date” on the UTD within the SERFF system general information area on the disposition letter; and b) add a sub-type of insurance (TOI) for expatriate plans under H15G and H15I. The description would be expatriate plans that are not required to comply with all state or federal mandates for health benefits. During its July 15 meeting, the Working Group: 1) adopted its June 15 minutes; 2) discussed suggestions for 2020 changes to the Property and Casualty PCM and UTD effective Jan. 1, 2021. None of the suggested changes were adopted; and 3) discussed plans for its next meeting, which will take place Aug. 27 to discuss the SERFF canned report in more detail and other topics related to the Working Group’s charges.

Long-Term Care Insurance (EX) Task Force—The Long-Term Care Insurance (EX) Task Force met Aug. 7 and took the following action: 1) adopted its July 2 minutes, which includes the following action: a) adopted its 2019 Fall National Meeting minutes; and b) received progress reports on the activities of its six workstreams; 2) adopted the formation of three subgroups and related charges (Attachment Three-B); 3) received a progress report on the activities of two of the Task Force’s workstreams: a) the rate review practices workstream has made progress developing a multi-state rate review process, which
includes coordination with states and collaboration with the Compact; and b) the reduced benefit options (RBO) and consumer notices workstream developed and exposed for public comment a draft RBO Principles document that is intended to assist in providing guidance to state insurance regulators when evaluating RBO offerings by insurers; and 4) heard from consumer and industry representatives on their comments on the draft RBO Principles document.
National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

RECOMMENDS that insurance companies and all persons or entities facilitating the business of insurance that play an active role in the AI system life cycle, including third parties such as rating, data providers and advisory organizations (hereafter referred to as “AI actors”) promote, consider, monitor and uphold the following principles according to their respective roles; and

THIS DOCUMENT is intended to establish consistent high-level guiding principles for AI actors. These principles are guidance and do not carry the weight of law or impose any legal liability. This guidance can serve to inform and establish general expectations for AI actors and systems emphasizing the importance of accountability, compliance, transparency, and safe, secure, fair and robust outputs.

Further, THIS DOCUMENT

Should be used to assist regulators and NAIC committees addressing insurance-specific AI applications. The level of regulatory oversight may vary based on the risk and impact to the consumer. These principles should be interpreted and applied in a manner that accommodates the nature and pace of change in the use of AI by the insurance industry and promotes innovation, while protecting the consumer.

Fair and Ethical

a. AI actors should respect the rule of law throughout the AI life cycle. This includes, but is not limited to, insurance laws and regulations, such as those relating to trade practices, unfair discrimination, access to insurance, underwriting, privacy, consumer protection and eligibility practices, ratemaking standards, advertising decisions, claims practices, and solvency.

b. Consistent with the risk-based foundation of insurance, AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and to avoid proxy discrimination against protected classes. AI systems should not be designed to harm or deceive people and should be implemented in a manner that avoids harmful or unintended consequences and corrects and remediates such consequences when they occur.
Accountable

a. AI actors should be accountable for ensuring that AI systems operate in compliance with these principles consistent with the actors’ roles, within the appropriate context and evolving technologies. Any AI system should be compliant with legal requirements governing its use of data and algorithms during its phase of the insurance life cycle. Data supporting the final outcome of an AI application should be retained and be able to be produced in accordance with applicable insurance laws and regulations in each jurisdiction. AI actors should be responsible for the creation, implementation and impacts of any AI system, even if the impacts are unintended. AI actors should implement mechanisms and safeguards consistent with the degree and nature of the risks posed by AI to ensure all applicable laws and regulations are followed, including ongoing (human or otherwise) monitoring and, when appropriate, human intervention.

Compliant

a. AI actors must have the knowledge and resources in place to comply with all applicable insurance laws and regulations. AI actors must recognize that insurance is primarily regulated by the individual states and territories of the United States as well as by the federal government, and that AI systems must comply with the insurance laws and regulations within each individual jurisdiction. Compliance is required whether the violation is intentional or unintentional. Compliance with legal requirements is an ongoing process. Thus, any AI system that is deployed must be consistent with applicable laws and safeguards against outcomes that are either unfairly discriminatory or otherwise violate legal standards, including privacy and data security laws and regulations.

Transparent

a. For the purpose of improving the public’s confidence in AI, AI actors should commit to transparency and responsible disclosures regarding AI systems to relevant stakeholders. AI actors must have the ability to protect confidentiality of proprietary algorithms, provided adherence to individual state law and regulations in all states where AI is deployed can be demonstrated. These proactive disclosures include revealing the kind of data being used, the purpose of the data in the AI system and consequences for all stakeholders.

b. Consistent with applicable laws and regulations, stakeholders (which includes regulators and consumers) should have a way to inquire about, review and seek recourse for AI-driven insurance decisions. This information should be easy-to-understand and describe the factors that lead to the prediction, recommendation or decision. This information may be presented differently and should be appropriate for applicable stakeholders.
Secure, Safe and Robust

a. AI systems should be robust, secure and safe throughout the entire life cycle so that in conditions of normal or reasonably foreseeable use, or adverse conditions, they can function in compliance with applicable laws and regulations. To this end, AI actors should ensure a reasonable level of traceability in relation to datasets, processes and decisions made during the AI system life cycle. AI actors should enable analysis of the AI system’s outcomes, responses and other insurance-related inquiries, as appropriate in keeping with applicable industry best practices and legal requirements.

b. AI actors should, based on their roles, the situational context and their ability to act, apply a systematic risk management approach to each phase of the AI system life cycle on a continuous basis to address risks related to AI systems, including privacy, digital security and unfair discrimination as defined by applicable laws and regulations.
Proposed Charges:

The LTCI Multistate Rate Review (EX) Subgroup will:

Develop a consistent national approach for reviewing LTCI rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization. The Subgroup should complete its charges by the 2021 Summer National Meeting.

- Chair: Commissioner Michael Conway (CO)
- Consolidation of workstream 1–Multi-state Rate Review Practices and workstream 5–Non-Actuarial Variance Among the States
- Open Sessions or Regulator Only Sessions, pursuant to open meetings policy #3 – discussion of companies, entities or individuals

The LTCI Reduced Benefit Options (EX) Subgroup will:

Identify options and develop recommendations for the rate review approach that provides consumers with choices regarding modifications to LTCI contract benefits where policies are no longer affordable due to rate increases. The Subgroup should complete its charges by Dec. 31, 2020.

- Chair: Commissioner Jessica K. Altman (PA)
- Former workstream 3—Reduced Benefit Options and Consumer Notices
- Open Sessions

The LTCI Financial Solvency (EX) Subgroup will:

a. Explore restructuring options and techniques to address potential inequities between policyholders in different states; and techniques to mitigate policyholders’ risk to state guaranty fund benefit limits including states’ pre-rehabilitation planning options. Evaluate the work of the consultant and report on the work to the Task Force
b. Evaluate the results of consultants’ work on the completion of a data call and report on the work to the Task Force
c. Monitor work performed by other NAIC solvency working groups and assist in the timely multi-state coordination/communication of the review of the financial condition of LTC insurers

The Subgroup should complete its charges by the 2021 Summer National Meeting.

- Co-Chairs: Doug Slape (TX) and Fred Andersen (MN)
- Consolidation of workstream 2–Restructuring Techniques, workstream 4–Valuation of Long-Term Care Insurance (LTCI) Reserves and workstream 6–Data Call Design and Oversight
- Regulator Only Sessions, pursuant to open meetings policy #3 – discussion of companies, entities or individuals
REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC’s Executive Committee is required. The NAIC’s Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: ☐ New Model Law or ☑ Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

   Receivership Law (E) Working Group

2. NAIC staff support contact information:

   Jane Koenigsman
   jkoenigsman@naic.org
   816-783-8145

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

   • Insurance Holding Company System Regulatory Act (#440)
   • Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)

   In 2018 the Financial Stability (EX) Task Force made a referral to the Receivership and Insolvency (E) Task Force as part of the Macro Prudential Initiative (MPI). At the 2019 Summer National Meeting, the Receivership and Insolvency (E) Task Force adopted a report including recommendations to address receivership powers that are implicit in state laws, rather than explicit. One such area is the power to ensure the continuity of essential services and functions within a holding company group once an insurer is placed into receivership.

   The Financial Stability Board’s (FSB) Key Attributes (KAs) of Effective Resolution Regimes for Financial Institutions KA 3.2 states that a resolution authority should have the power to ensure the continuity of essential services and functions by requiring companies in the group to continue providing services. Under Common Framework for the supervision of Internationally Active Insurance Groups (ComFrame) (CF 12.7a), a resolution authority may take steps to provide continuity of essential services by requiring other entities within the IAIG (including non-regulated entities) to continue services. The Task Force identified the following authority and remedies available within the US regime related to these international standards:

   • The Insurance Holding Company System Model Act (#440) requires approval of affiliated transactions, allowing a regulator to identify agreements that could create obstacles in a receivership. The Insurance Holding Company System Model Regulation (#450), Section 19, provides that cost sharing and management agreements specify if the insurer is placed in receivership that an affiliate has no automatic right to terminate the agreement.
   • The Receiver can take action against a provider that refuses to continue services under a contract, or seek an order requiring it to turn over records. If an affiliate providing services is inextricably intertwined with the insurer, the Receiver could also seek to place the affiliate into receivership.

   However, it was noted that some of these authorities and remedies may not address the immediate need to continue services in some receiverships. Despite these available remedies, receivers continue to be challenged by this issue in receivership, often resulting in significant additional legal and administrative expenses to the receivership estate.

   One potential solution is to revise the definition of “insurer” under state insurance holding company laws to encompass affiliated entities whose sole purpose is to provide services to the insurer.

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The NAIC adopted 2020 charges for the Receivership Law (E) Working Group to: “Review and provide recommendations for remedies to ensure continuity of essential services and functions to an insurer in receivership by affiliated entities, including non-regulated entities. Consult with the Group Solvency Issues (E) Working Group as the topic relates to affiliated intercompany agreements.”

Scope of the Proposed Revisions to Models 440 and 450
The scope of the request is limited to addressing the issue of continuation of essential services through affiliated intercompany agreements that arise during the receivership of an insurance company. The Receivership Law (E) Working Group under the Receivership and Insolvency (E) Task Force would complete the review and recommend proposed revisions. Revisions may be necessary to the following sections of Models 440 and 450 including, but not limited to:

- Model 440 Section 1. Definitions
- Model 440 Section 5. Standards and Management of an Insurer Within an Insurance Holding Company System
- Model 440 Section 12. Receivership

Model 450. Consistency with any revisions to Model 440

4. Does the model law meet the Model Law Criteria? ☒ Yes  or  ☐ No  (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? ☒ Yes  or  ☐ No  (Check one)

If yes, please explain why:

While this change is being made in connection with the NAICs Macro Prudential Initiative, most important is that such changes are needed to address the challenges receivers continue to encounter in the area of continuation services which often result in significant additional legal and administrative expenses to the receivership estate and all members of the Task Force supported this request.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

☒ Yes  or  ☐ No  (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

☒ 1  ☐ 2  ☐ 3  ☐ 4  ☐ 5  (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

☒ 1  ☐ 2  ☐ 3  ☐ 4  ☐ 5  (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary: See previous discussion.
7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple and because they have the potential to reduce expenses incurred by receivership estates, we believe such changes will be widely supported by all parties.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

The Insurance Holding Company System Model Act (#440) is an Accreditation Standard but the task force has not yet considered whether this should become part of the required elements of that specific standard. However, given the potential the changes have in reducing the cost of regulation under receiverships, a national standard is likely appropriate.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.
REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC’s Executive Committee is required. The NAIC’s Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: □ New Model Law or ☒ Amendment to Existing Model

1. Name of group to be responsible for drafting the model:
   Financial Stability (EX) Task Force

2. NAIC staff support contact information:
   Todd Sells
   tsells@naic.org
   816-783-8403

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

   • Insurance Holding Company System Regulatory Act (#440)
   • Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450)

   **Background & Description**

   One of the key deliverables of the Financial Stability (EX) Task Force is to implement the Macroprudential Initiative (MPI) domestically, which includes enhancements to the U.S. regulatory toolkit as part of the State Ahead initiative. The most significant of the deliverables from the MPI includes the development of a liquidity stress test for the largest life insurers.

   **Scope of the Proposed Revisions to Model #440 and Model #450**

   The scope of the request is limited to addressing the issue of establishing regulatory authority to require stress testing and disclosures related to liquidity risk and establish, in statute, the confidentiality of those disclosures as appropriate. The Financial Stability (EX) Task Force would complete the review and recommend proposed draft revisions to Model #440 and Model #450. It is anticipated that these revisions will need to reference liquidity stress testing framework documents that will need to be able to be modified annually without opening up the models themselves (e.g., directions regarding the liquidity stress test, reporting templates, and specific requirements of the stress scenarios). Revisions may be necessary to the following sections of Model #440 and Model #450, including, but not limited to:

   Model #440 Section 1. Definitions
   Model #440 Section 5. Standards and Management of an Insurer Within an Insurance Holding Company System
   Model #440 Section 8. Confidential Treatment
   Model #450: Consistency with any revisions to Model #440

4. Does the model law meet the Model Law Criteria? ☒ Yes or □ No (Check one)

   (If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

   a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? ☒ Yes or □ No (Check one)
While this change is being made in connection with the NAIC’s MPI, most important is that such changes are needed for confidentiality protections for those who would be filing this stress test, which includes the largest life insurers that are operating in all of the states.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

☐ Yes or ☐ No (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

At this juncture, the changes in concepts being considered are simple; the Task Force believes that such changes will be widely supported.

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

The Model #440 is an accreditation standard, but the Task Force has not yet considered whether this should become part of the required elements of that specific standard.

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No.
REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC’s Executive Committee is required. The NAIC’s Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: ☐ New Model Law       or       ☑ Amendment to Existing Model

1. Name of group to be responsible for drafting the model:
   Life Actuarial (A) Task Force

2. NAIC staff support contact information:
   Reggie Mazyck

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

   The Standard Nonforfeiture Law for Individual Deferred Annuities (#805) sets the floor for the nonforfeiture interest rate at 1 percent. The current low interest rate environment necessitates lowering the nonforfeiture interest rate to 0 percent to allow companies to support the nonforfeiture guarantees in their deferred annuity contracts. The Life Actuarial (A) Task Force proposal seeks to amend Section 4B(3) of #805 to lower the 1 percent interest rate floor to 0 percent.

4. Does the model law meet the Model Law Criteria? ☑ Yes     or     ☐ No     (Check one)

   (If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

   a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? ☑ Yes     or     ☐ No     (Check one)

      If yes, please explain why

   b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

      ☑ Yes     or     ☐ No     (Check one)

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

   ☑ 1     ☐ 2     ☐ 3     ☐ 4     ☐ 5     (Check one)

   High Likelihood                                      Low Likelihood

   Explanation, if necessary:
6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood Low Likelihood

Explanation, if necessary:

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 (Check one)

High Likelihood Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

No

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No

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To: Members of the NAIC Executive Committee
From: Superintendent Beth Dwyer, Rhode Island Department of Business Regulation Insurance Division Chair, NAIC Insurance Regulator Professional Designation Program Advisory Board
Date: August 13, 2020
Subject: 2019 Annual Report of NAIC Designation Program Advisory Board Activities

In October of 2006, the NAIC launched the Insurance Regulator Professional Designation Program (“Designation Program”), a formal credentialing program designed for regulators, by regulators to establish structured training and development paths for insurance department employees. In that same year, the Internal Administration (EX1) Subcommittee directed the program’s Advisory Board to present a brief annual report of program benchmarks and board activities. This memorandum, with its supplemental charts, sets forth an account of the program’s year in review.

Program Enrollments
We continued our outreach to states and have seen increased interest and enrollments across the board. In 2019, the NAIC Education & Training Department processed over 350 Designation Program enrollments, bringing the total number of enrollments since 2006 to 2,392.

We awarded 235 new designations in 2019. By year-end, earned designation totals were as follows: 943 APIR designees, 343 PIR designees, 22 SPIR designees, and 2 IPIR designees.

With the continuation of the State Ahead Strategic Plan, we expect a continuing increase in enrollments in 2020. Goal III of State Ahead speaks to Superior Member Services and Resources, which includes the initiative to “continue to increase regulator participation in the NAIC Insurance Regulator Professional Designation Program.”

Program Updates
Goal I of State Ahead speaks to providing regulators with the data, training and tools required to support a collaborative regulatory environment which, in part, includes utilizing cloud capabilities. The NAIC Designation Program cloud-based enrollment system was released at the end of 2017 to allow regulators to enroll, pay, apply for the designation, renew and keep their transcripts in the site. Work is underway to enhance functionality and expand support for participants as the program continues to grow.

The Designation Program Mentoring Network
States have been encouraged to appoint a “mentor” that can serve as a liaison between the Department and the NAIC’s Education & Training Department as a means of disseminating information about the program to interested regulators, and to assist candidates as they have questions. All but one territory has individuals active in this role. Most mentors have earned an NAIC Designation or are currently working toward one.
The Annual Designation Program Advisory Board Meeting
The Designation Program Advisory Board met regularly throughout 2019 via conference call to discuss policy matters and other issues. The annual in-person board meeting was held May 6 in Kansas City. Discussion items included policy recommendations and promotion of the program in conjunction with the State Ahead goals.

2020 Accomplishments
Several significant accomplishments have occurred in 2020, including:

- Replacing the program’s enrollment site with a new program management system (Certemy) to streamline and automate many of the processes done manually today, which will provide a better user experience for program participants. Onboarding to the Certemy system began July 1 for an October implementation.
- Created and implemented a new course for the APIR level, “Introduction to Financial Regulation for Non-Financial Regulators.”
- Updated program policies in response to program participant needs and requests (waiving first retake fee, removing tenure requirements for APIR and PIR, and allowing courses to be taken “out of sequence”).
- Granted a 1-year extension on all Designation renewal dates.

About the Insurance Regulator Professional Designation Program Advisory Board
The 2019 Advisory Board was composed of Mary Mealer, Life and Health Manager, Market Regulation Division, Missouri Department of Insurance; Pat McNaughton, Chief Financial Examiner, Washington Office of the Insurance Commissioner; Rachel Chester, Chief of Consumer and Licensing Services, Rhode Island Department of Business Regulation Insurance Division and Scott Sanders, Supervisor of Insurance and Financial Oversight, Georgia Office of Insurance.

North Dakota Commissioner Jon Godfredal chaired the 2019 Advisory Board.

In addition to overseeing Designation Program policy and advising NAIC Education Department staff on designation program policy administration, the board members work on outreach to regulators during NAIC Zone Meetings and other regulatory meetings. Additional information about the Designation Program can be found by visiting the NAIC website:  http://naic.org/education_designation.htm
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Amendments to the **Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act** (#171)—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA); therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee. At the 2015 Fall National Meeting, the Regulatory Framework (B) Task Force discussed the proposed revisions to this model. The Task Force met Feb. 11, 2016, and appointed the Accident and Sickness Insurance Minimum Standards (B) Subgroup to work on revisions to this model. The Subgroup has been meeting on a regular basis since the 2016 Spring National Meeting, and it plans to continue meeting via conference call until it completes its work. During its meetings, the Subgroup has discussed several issues, including its approach for revising the model’s disability income insurance coverage provisions, and decided preliminarily to review the Interstate Insurance Product Regulation Commission’s (Compact’s) approach. After pausing its work due to the ACA’s potential repeal, replacement or modification—and the possible impact on the provisions of this model, as well as the Subgroup’s preliminary proposed revisions to the model—the Subgroup began meeting again via conference call in May 2018. Revisions to the **Supplementary and Short-Term Health Insurance Minimum Standards Model Act** (#170) were adopted by the full NAIC membership at the 2019 Spring National Meeting. The Subgroup has been meeting via conference call to consider revisions to Model #171 for consistency with the revised Model #170 since the 2019 Summer National Meeting discussion on comments received on Sections 1–5 of Model #171. In December 2019, the Subgroup set a public comment period ending Feb. 7 to receive comments on Section 6 and Section 7 of Model #171. Due to the COVID-19 health emergency, the Subgroup has not scheduled any meetings. Any future meetings will depend on when a new co-chair is appointed and the duration of the COVID-19 health emergency. As requested, the Subgroup received comments from stakeholders on Section 6 and Section 7 of Model #171. Whenever the Subgroup meets next, the Subgroup will: 1) complete its discussion of the comments received on Sections 1–5 of Model #171; and 2) begin discussion of the comments received on Section 6 and Section 7 of Model #171. The Subgroup would like to complete its work by the end of 2020.

Amendments to the **Annuity Disclosure Model Regulation** (#245)—The Executive (EX) Committee met June 19, 2017, and approved a Request for NAIC Model Law Development to amend Model #245. The amendments will revise Section 6—Standards for Illustrations. The purpose of the revision is to address issues identified by the Annuity Disclosure (A) Working Group of the Life Insurance and Annuities (A) Committee related to innovations in annuity products that are not addressed, or not addressed adequately, in the current standards. Revisions addressing participating income annuities were adopted by the Life Insurance and Annuities (A) Committee during its July 19, 2018, conference call and held pending the resolution of the Working Group’s discussions regarding illustrating indexes in existence for less than 10 years. The Working Group continues to discuss additional revisions on the index issue. The Working Group made progress during discussions via conference calls in late 2019 and early 2020, and it received an extension from the Life Insurance and Annuities (A) Committee at the 2020 Summer National Meeting to finish its work.

Amendments to the **Health Maintenance Organization Model Act** (#430)—The Executive (EX) Committee approved the Request for NAIC Model Law Development to amend Model #430 at the 2019 Summer National Meeting. The HMO Issues (B) Subgroup of the Regulatory Framework (B) Task Force is drafting the amendments to address conflicts and redundancies with provisions in the **Life and Health Insurance Guaranty Association Model Act** (#520). Following the 2019 Summer National Meeting, the Working Group met via conference call to consider recommendations from the Virginia Insurance Bureau on revising Model #430 consistent with its charge. During its Nov. 21, 2019, conference call, the Working Group decided to move forward with revising Model #430 based on recommendations from the Maine Bureau of Insurance (BOI). It is anticipated that the Subgroup will meet via conference call sometime after the 2019 Fall National Meeting to review an initial draft of revisions to Model #430 based on the Maine BOI’s recommendations. The Subgroup adopted the revisions to Model #430 on July 13. The Regulatory Framework (B) Task Force and the Health Insurance and Managed Care (B) Committee will consider adoption of the revisions after the 2020 Summer National Meeting.

Amendments to the **Insurance Holding Company System Regulatory Act** (#440) and the **Insurance Holding Company System Model Regulation with Reporting Forms and Instructions** (#450)—The Executive (EX) Committee approved the Requests for NAIC Model Law Development for amendments to Model #440 and Model #450 at the 2019 Fall National Meeting. The Working Group recently exposed proposed changes to Model #440 for a second round of comments while also exposing proposed changes to Model #450 for a first round of comments. The Working Group is still striving to adopt the calculation before the end of 2020.
Amendments to the Life Insurance Disclosure Model Regulation (#580)—The Executive (EX) Committee met June 19, 2017, and approved the Request for NAIC Model Law Development to incorporate a policy overview document requirement into Model #580 and the Life Insurance Illustrations Model Regulation (#582) in order to improve the understandability of the life insurance policy summary and narrative summary already required by Section 5A(2) of Model #580 and Section 7B of Model #582. While the Life Insurance Illustration Issues (A) Working Group of the Life Insurance and Annuities (A) Committee was originally planning to revise both Model #580 and Model #582, it will now revise only Model #580. The Working Group has been meeting via conference call to develop language to add a requirement for a one- to two-page consumer-oriented policy overview. The Working Group continued to make progress during conference calls in late 2019 and early 2020, and it received an extension from the Life Insurance and Annuities (A) Committee at the 2020 Summer National Meeting to continue its work.

Amendments to the Mortgage Guaranty Insurance Model Act (#630)—The Executive (EX) Committee and Plenary approved the Request for NAIC Model Law Development to amend Model #630 on July 26, 2013. The Mortgage Guaranty Insurance (E) Working Group of the Financial Condition (E) Committee developed substantial changes to the model, but it continues to discuss those changes. COVID-19 has prevented the Working Group from working on Model #630, for which in February the Financial Condition (E) Committee adopted an extension until the 2020 Fall National Meeting.

Amendments to the Unfair Trade Practices Act (#880)—The Executive (EX) Committee approved the Request for NAIC Model Law Development to amend Model #880 at the 2019 Fall National Meeting. The Innovation and Technology (EX) Task Force will draft amendments to Model #880, focusing on Section 4H, to clarify what is considered a “rebate” or “inducement.” A drafting group was formed, led by Superintendent Elizabeth Kelleher Dwyer (RI), to develop language for exposure. The drafting group held its first call on Jan. 27, 2020, followed by three more calls. In all, five drafts were discussed, the drafting group disbanded on June 17, 2020, and the draft coming out of that work was distributed and posted to the NAIC website for comment. The Innovation and Technology (EX) Task Force continues to deliberate regarding the language, and it will discuss it during its meeting on Aug. 7, 2020.

New Model: Real Property Lender-Placed Insurance Model Act—The Executive (EX) Committee approved the Request for NAIC Model Law Development, submitted by the Property and Casualty Insurance (C) Committee, to draft the new Real Property Lender-Placed Insurance Model Act at the 2017 Summer National Meeting. The Lender-Placed Insurance Model Act (C) Working Group of the Property and Casualty Insurance (C) Committee exposed a draft of this proposed new model focusing on lender-placed insurance related to mortgage loans for a public comment period ending Oct. 31, 2018. At the 2020 Summer National Meeting, the Working Group received an extension of time to continue drafting the new model.

New Model: Pet Insurance Model Law—The Executive (EX) Committee approved the Request for NAIC Model Law Development at the 2019 Summer National Meeting. The Pet Insurance (C) Working Group is holding conference calls to draft the model law to define a regulatory structure for pet insurance and address issues, such as: producer licensing; policy terms; coverages; claims handling; premium taxes; disclosures; arbitration and preexisting conditions.

New Model: Pharmacy Benefit Manager (PBM) Model Law—The Executive (EX) Committee approved the Request for NAIC Model Law Development at the 2019 Summer National Meeting to draft a new model law addressing the licensure or registration of PBMs. The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup of the Regulatory Framework (B) Task Force is drafting the model as a result of discussions that began during the Health Insurance and Managed Care (B) Committee’s work to revise the Health Carrier Prescription Drug Benefit Management Model Act (#22). Following the 2019 Summer National Meeting, the Working Group held several information-gathering sessions to assist it in working on its charge. The Working Group met via conference call in regulator-to-regulator session to discuss its next steps. The Working Group formed an ad hoc drafting group to develop an initial draft regulating PBMs. The Subgroup met via conference call July 16 to discuss a draft of establishing a PBM licensing requirement and other PBM provisions, including a gag clause provision. The Subgroup exposed the draft for a public comment period ending Sept. 1, 2020.