

*Virtual Meeting  
(in lieu of meeting at the 2020 Fall National Meeting)*

**PUBLIC HEARING FOLLOWED BY THE  
JOINT MEETING OF EXECUTIVE (EX) COMMITTEE  
AND INTERNAL ADMINISTRATION (EX1) SUBCOMMITTEE  
Wednesday, December 2, 2020**

**Meeting Summary Report**

The Executive (EX) Committee and the Internal Administration (EX1) Subcommittee met in joint session Dec. 2, 2020. The public hearing was held in open session. The joint 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 the meeting, the Committee and Subcommittee:

1. Presented the proposed NAIC 2021 budget in a public hearing, with no written or oral comments received.
2. Adjourned into regulator-to-regulator session.
3. Approved the proposed NAIC 2021 budget and recommended the proposed NAIC 2021 budget be considered by the full membership during the joint meeting of the Executive (EX) Committee and Plenary during the 2020 Fall National Meeting.
4. Adopted its Oct. 26 and Sept. 30 minutes, which included the following action:
  - a. Approved exposure of the proposed NAIC 2021 budget for a public comment period.
  - b. Approved the 2021 International Association of Insurance Supervisors (IAIS) members.
  - c. Approved the economic scenario generator (ESG) fiscal and authorized the NAIC management contract with Conning to provide the ESG and related services.
  - d. Appointed an alternate insurance commissioner representative to the Financial Stability Oversight Council (FSOC).
5. Received the joint chief executive officer (CEO)/chief operating officer (COO) report.
6. Discussed the 2021 Commissioners Conference and future NAIC meetings.
7. Received a cybersecurity briefing.
8. Received the Sept. 30 Long-Term Portfolio and Defined Benefit Plan investment reports.
9. Adopted the report of the Audit Committee, which met Nov. 16 and took the following action:
  - a. Received an overview of the Sept. 30 financial statements with an update for October.
  - b. Received an update on the 2020 financial audit.
  - c. Received an update on the 2020/2021 Service Organization Control (SOC) 1 and SOC 2 reviews and reports.
  - d. Received an update on database filing fee payments.
  - e. Received an update on zone financials.
  - f. Reviewed the 2021 budget calendar.
10. Adopted the report of the Information Systems (EX1) Task Force, which met Nov. 20 and took the following action:
  - a. Received an operational report for the NAIC's information technology (IT) activities.
  - b. Received a portfolio update, which includes 20 active projects, and a summary of three projects completed since the Summer National Meeting.
11. Approved a recommendation to 1) utilize a law firm to assist the Long-Term Care Insurance (EX) Task Force; and 2) expose the Long-Term Care Insurance (LTCI) Legal Restructuring fiscal impact statement for a public comment period.

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**EXECUTIVE (EX) COMMITTEE**  
**October 27, 2020 / September 30, 2020**

**Summary Report**

The Executive (EX) Committee met Oct. 27 and Sept. 30, 2020 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. Approved release of the proposed NAIC 2021 budget for public review and comment.
2. Reappointed Commissioner David Altmaier (FL), Commissioner Gary D. Anderson (MA), Director Raymond G. Farmer (SC), and Michael F. Consedine (NAIC) to the International Association of Insurance Supervisors (IAIS) Executive Council.
3. Adopted the July 14 minutes of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee.
4. Adopted the Sept. 9 minutes of the Internal Administration (EX1) Subcommittee.
5. Adopted the report of the Audit Committee.
6. Adopted the report of the Information Systems (EX1) Task Force.
7. Approved the Economic Scenario Generator (ESG) fiscal.
8. Appointed Commissioner Anderson as the alternate representative on the Financial Stability Oversight Council (FSOC).
9. Heard an update on the System for Electronic Rate and Form Filing (SERFF) Assessment.
10. Heard a joint chief executive officer (CEO)/chief operating officer (COO) report.

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Draft: 12/8/20

## REPORT OF THE EXECUTIVE (EX) COMMITTEE TASK FORCES

**Climate and Resiliency (EX) Task Force**—The Climate and Resiliency (EX) Task Force met Nov. 3 and took the following action: 1) heard comments from industry regarding its 2021 proposed charges and work plan; 2) adopted its 2021 proposed charges; and 3) discussed its work plan to include the following workstreams: solvency, pre-disaster mitigation, climate risk disclosures, innovation and technology. The Task Force also met Oct. 13 in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss the restructuring of committee groups related to climate risk and resiliency.

**Financial Stability (EX) Task Force**—The Financial Stability (EX) Task Force met Oct. 13 and took the following action: 1) adopted its Summer National Meeting minutes; 2) adopted its 2021 proposed charges; 3) adopted revisions to the *Insurance Holding Company System Regulatory Act* (#440) as part of the liquidity stress test (LST) framework and subsequently sent them to the Financial Condition (E) Committee for consideration; and 4) adopted the report of the Liquidity Assessment (EX) Subgroup, which provided an update on its progress toward achieving its deliverables related to the LST.

**Government Relations (EX) Leadership Council**—The Government Relations (EX) Leadership Council did not meet at the Fall National Meeting. The Leadership Council meets weekly 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 Dec. 4 and took the following action: 1) adopted the reports of the Big Data (EX) Working Group, Artificial Intelligence (EX) Working Group and the Speed to Market (EX) Working Group. The Task Force also heard a report from the Dec. 1 Innovation and Technology State Contacts Roundtable; 2) discussed and adopted model law language amendments to the *Unfair Trade Practices Act* (#880) pertaining to anti-rebating; 3) received an update from the various groups working on related workstreams, including the Accelerated Underwriting (A) Working Group, the Casualty Actuarial and Statistical (C) Task Force on its work related to predictive modeling and the Privacy Protections (D) Working Group; 4) heard an update on cybersecurity activities; 5) heard an update on the National Council of Insurance Legislators' (NCOIL's) insurance modernization activities; 6) discussed and prioritized issues identified based on the Requests for Information (RFIs) related to continuing specific "regulatory relief" or "regulatory accommodations" offered by states as a result of the COVID-19 pandemic; and 7) received a presentation from NAIC staff on corporate and other data and model governance frameworks. .

The **Artificial Intelligence (EX) Working Group** has not met since prior to the Summer National Meeting.

The **Big Data (EX) Working Group** has not met since the Summer National Meeting. The Working Group last 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 Nov. 10, Sept. 29 and Aug. 27. During its Nov. 10 meeting, the Working Group took the following action: 1) adopted its Sept. 29 minutes; 2) further discussed the Product Requirement Locator (PRL) and reviewed a draft survey regarding the PRL. A survey will be generated to the states that populate the PRL, and then future discussion will take place for next steps; and 3) discussed phase one of the communication plan for speed to market tools. During its Sept. 29 meeting, the Working Group took the following action: 1) adopted its Aug. 27 minutes; 2) discussed discontinuation of the PRL; and 3) discussed communication plans for speed to market tools. During its Aug. 27 meeting, the Working Group took the following action: 1) discussed its priorities and charges for the remainder of 2020; and 2) and discussed parameters and output fields for the System for Electronic Rate and Form Filing (SERFF) Canned Report for Rate Changes.

**Long-Term Care Insurance (EX) Task Force**—The Long-Term Care Insurance (EX) Task Force met Dec. 4 and took the following action: 1) adopted its Nov. 2 and Summer National Meeting minutes, which included adoption of the 2021 proposed charges of the Task Force and its subgroups; and 2) received the reports of its subgroups: a) the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup continues to make progress developing a multi-state rate review process; and b) the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup received comments and adopted a draft RBO Principles

document and a draft Reduced Benefit Options (RBO) Consumer Notices Principles document that is intended to assist in providing guidance to state insurance regulators when evaluating RBO offerings and consumer notices by insurers. The Task Force referred the two principles documents to the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup.

**Special (EX) Committee on Race and Insurance**—The Special (EX) Committee on Race and Insurance met Dec. 7 and took the following action: 1) adopted its Sept. 17 meeting minutes, which included the following action: a) reaffirmed its charges; b) discussed its five workstreams; and c) heard comments from members and interested parties; and 2) received a report from Workstreams One through Five.

Workstream One of Special Committee met Dec. 1, Nov. 18, Oct. 30, Oct. 20 and Oct. 6 and took the following action: 1) reviewed the charges of the Special Committee; 2) reviewed the charges of Workstream One; 3) discussed proposed next steps and deliverables; 4) reviewed a proposed timeline; 5) reviewed data on diversity within the insurance industry; 6) discussed potential sources of additional information; 7) assembled agenda, speakers and potential questions for its Nov. 18 public meeting with stakeholders; 8) heard comments from Esther Aguilera (Latino Corporate Directors Association—LCDA), Linda Akutagawa (Alliance for Board Diversity—ABD), Karen Batchelor (Amerisure Mutual Insurance Company), Matt Fust (Out Leadership’s Quorum Initiative), Angela Gleason (American Property Casualty Insurance Association—APCIA), Charles Gray (Egon Zehnder), Susan Neely (American Council of Life Insurers—ACLI), and Marguerite Tortorello (Insurance Careers Movement); and 9) began drafting an initial report to the Special (EX) Committee on Race and Insurance outlining its findings, as well as its recommendations to the Executive (EX) Committee and membership on next steps.

Workstream Two of the Special Committee is directed at analyzing the level of diversity within the NAIC and the state insurance regulatory community. The workstream met Nov. 16, Oct. 30 and Oct. 16 in regulator-to-regulator session. The NAIC has responded to a set of questions directed towards its efforts on diversity, equity and inclusion, and those responses will be presented to the workstream at an upcoming meeting. A survey on best practices is being developed to examine initiatives state insurance departments can consider to promote diversity and inclusion in their offices.

Workstream Three of the Special Committee is focused on property/casualty (P/C) insurance issues. The workstream first met Oct. 13 in regulator-to-regulator session to discuss its charge and timeline and to develop a draft list of proposed casualty/C insurance issues that the workstream wished to focus on. The workstream sought comment on its proposed list of issues on Oct. 29. It also met on Nov. 12 and took the following action: 1) reviewed comments; and 2) heard from seven interested parties: Birny Birnbaum (Center for Economic Justice—CEJ); Lauren Cavanaugh (American Academy of Actuaries—Academy); Michael DeLong (Consumer Federation of America—CFA); Angela Gleason (APCIA); Sonja Larkin-Thorne (Consumer Advocate); Grace Vandecruze (Grace Global Capital LLC); and Nat Shapo (Katten Muchin Rosenman LLP). The workstream then met Nov. 19 in regulator-to-regulator session to review the Nov. 12 comments and revise its preliminary list of issues. The workstream intends to finalize the list of issues either via email and/or with the assistance of another regulator-to-regulator meeting in December so that it can finalize a report to the Special Committee before the end of the year that will include recommendations on how to address the issues identified.

Workstream Four of the Special Committee met Nov. 16 and Oct. 30 in regulator-to-regulator session. During these meetings, the workstream discussed a list of issues to consider and prioritized the following issues: 1) access to life insurance products focusing on education and distribution; 2) disparities in underwriting/rating, focusing on what the disparities are and the factors that cause disparities; and 3) disparities in cancellations/rescissions, focusing on what the disparities are and the factors that cause disparities. The workstream intends to hold a stakeholder meeting on Dec.10 to discuss the potential issues identified.

Workstream Five of the Special Committee held a member organization meeting Oct. 20. During this meeting, the workstream discussed its charge and reviewed its: 1) next steps and deliverables; 2) timeline; and 3) potential issues for workstream focus related to health care disparities in health insurance access and affordability. The workstream held a stakeholder meeting on Dec. 2 to discuss the potential issues identified.

Draft: 10/6/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

## **2021 Proposed Charges**

### **EXECUTIVE (EX) COMMITTEE**

The mission of the Executive (EX) Committee is to manage the affairs of the NAIC in a manner consistent with its Articles of Incorporation and its Bylaws.

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Executive (EX) Committee** will:
  - A. Identify the goals and priorities of the organization and make recommendations to achieve such goals and priorities based on input of the membership. Make recommendations by the 2021 Commissioners Conference.
  - B. Create/terminate task force(s) and/or Executive (EX) Committee-level working groups to address special issues and monitor the work of these groups. Create necessary task force(s) and/or Executive (EX) Committee-level working groups throughout 2021 as necessary.
  - C. Submit reports and recommendations to NAIC members concerning the activities of its subcommittee and the standing committees. Submit a report at each national meeting.
  - D. Consider requests from NAIC members for friend-of-the-court briefs.
  - E. Establish and allocate functions and responsibilities to be performed by each NAIC zone.
  - F. Pursuant to the Bylaws, oversee the NAIC offices to assist the organization and the individual members in achieving the goals of the organization.
  - G. Conduct strategic planning on an ongoing basis.
  - H. Plan, implement and coordinate communications and activities with the Federal Insurance Office (FIO).
  - I. Plan, implement and coordinate communications and activities with other state, federal, local and international government organizations to advance the goals of the NAIC and promote understanding of state insurance regulation.
  - J. Review and approve requests for the development of model laws and/or regulations. Coordinate the review of existing model laws and/or regulations.
  - K. Select NAIC national meeting sites five and six years in advance of the meeting date to ensure efficient and economical locations and facilities.
  - L. Review and revise, as necessary and appropriate, the criteria and categories for registrants at NAIC national meetings.

NAIC Support Staff: Andrew J. Beal/Kay Noonan

Draft: 11/18/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Climate and Resiliency (EX) Task Force, Nov. 3, 2020*

## **2021 Proposed Charges**

### **CLIMATE AND RESILIENCY (EX) TASK FORCE**

The mission of the Climate and Resiliency (EX) Task Force is to serve as the coordinating NAIC body for discussion and engagement on climate-related risk and resiliency issues, including dialogue among state insurance regulators, industry, and other stakeholders.

#### **Ongoing Support of NAIC Programs, Products or Services**

The **Climate and Resiliency (EX) Task Force** will:

1. Consider appropriate climate risk disclosures within the insurance sector, including:
  - A. Evaluation of the Climate Risk Disclosure Survey.
  - B. Evaluation of alignment with other sectors and international standards.
2. Evaluate financial regulatory approaches to climate risk and resiliency in coordination with other relevant committees, task forces and working groups, such as the Financial Condition (E) Committee and the Financial Stability (EX) Task Force, including:
  - A. Evaluation of the use of modeling by carriers and their reinsurers concerning climate risk.
  - B. Evaluation of how rating agencies incorporate climate risk into their analysis and governance.
  - C. Evaluation of the potential solvency impact of insurers' exposures, including both underwriting and investments, to climate-related risks.
  - D. Evaluation and development of climate risk-related disclosure, stress-testing, and scenario modeling.
3. Consider innovative insurer solutions to climate risk and resiliency, including:
  - A. Evaluation of how to apply technology and innovation to the mitigation of storm, wildfire, other climate risks and earthquake.
  - B. Evaluation of insurance product innovation directed at reducing, managing and mitigating climate risk, and closing protection gaps.
4. Identify sustainability, resilience and mitigation issues and solutions related to the insurance industry.
5. Consider pre-disaster mitigation and resiliency and the role of state insurance regulators in resiliency.

NAIC Support Staff: Jennifer Gardner

Draft: 10/8/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Financial Stability (EX) Task Force, Oct. 13, 2020*

## 2021 Proposed Charges

### FINANCIAL STABILITY (EX) TASK FORCE

The mission of the Financial Stability (EX) Task Force is to consider issues concerning domestic or global financial stability as they pertain to the role of state insurance regulators.

#### Ongoing Support of NAIC Program, Products or Services

1. The **Financial Stability (EX) Task Force** will:
  - A. Consider issues concerning domestic and global financial stability as they pertain to the role of state insurance regulators and make recommendations to the International Insurance Relations (G) Committee, the Government Relations (EX) Leadership Council and/or the Executive (EX) Committee, as appropriate.
    1. Analyze existing post-financial crisis regulatory reforms for their application in identifying macroeconomic trends, including identifying possible areas of improvement or gaps, and propose to the Financial Condition (E) Committee or other relevant committee enhancements and/or additions to further improve the ability of state insurance regulators and the industry to address macroprudential impacts; consult with such committees on implementation, as needed.
  - B. Consider state insurance regulators' input to national and international discussions on macroeconomic vulnerabilities affecting the insurance sector.
    1. Monitor international macroprudential activities at forums like the International Association of Insurance Supervisors (IAIS).
    2. Implement the Macroprudential Initiative (MPI) domestically, which includes enhancements to the U.S. regulatory toolkit as part of the *State Ahead* initiative.
  - C. Serve as a forum to coordinate state insurance regulators' perspectives on a wide variety of issues arising from the designation of a U.S. insurance group as "systemically important" and "internationally active" both pre- and post-designation, including:
    1. Where appropriate, develop policy recommendations and/or guidance regarding the role, responsibilities and activities of state insurance regulators in the context of consolidated supervision resulting from designation.
    2. Analyze proposed rules by the federal agencies that relate to financial stability.
    3. Analyze proposed policy measures regarding supervisory standards for global systemically important insurers (G-SIIs) and internationally active insurance groups (IAIGs).
    4. Develop comment letters on such analysis for further consideration by the International Insurance Relations (G) Committee, the Government Relations (EX) Leadership Council, and/or the Executive (EX) Committee, as appropriate.
2. The **Liquidity Assessment (EX) Subgroup** will:
  - A. Continue to consider regulatory needs for data related to liquidity risk, and develop recommendations as needed.
  - B. Refine and implement a liquidity stress testing framework proposal for consideration by the Financial Condition (E) Committee.
  - C. Continue to develop and administer data collection tools, leveraging existing data where feasible, to provide the Financial Stability (EX) Task Force with meaningful macroprudential information regarding how the insurance sector is navigating market conditions affected by the COVID-19 pandemic.

NAIC Support Staff: Todd Sells/Tim Nauheimer

Draft: 10/9/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Government Relations (EX) Leadership Council, Oct. 21, 2020*

## **2021 Proposed Charges**

### **GOVERNMENT RELATIONS (EX) LEADERSHIP COUNCIL**

The Government Relations (EX) Leadership Council coordinates the NAIC's ongoing work with the federal government and state government officials on legislative and regulatory policy. The Leadership Council, in conjunction with the NAIC's other standing committees, is responsible for quickly responding to federal legislative and regulatory developments that affect insurance regulation.

The mission of the Government Relations (EX) Leadership Council is to develop, coordinate and implement the NAIC's legislative, regulatory and outreach initiatives. The Leadership Council will devise strategies for NAIC action and promote the participation of all NAIC members in the NAIC's government relations initiatives.

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Government Relations (EX) Leadership Council** will:
  - A. Monitor, analyze and respond to federal legislative and regulatory actions and other issues of importance to the NAIC membership.
  - B. Work with other standing committees, task forces and working groups to help develop and communicate the NAIC's policy views to federal and state officials on pending legislation and regulatory issues by involvement of NAIC members through testimony, correspondence and other approaches.
  - C. Develop a strategy and program for directly engaging NAIC members with the U.S. Congress and federal agencies to advocate for NAIC objectives and the benefits and efficiencies of state-based insurance regulation.
  - D. Secure broader participation from NAIC membership on all government affairs advocacy initiatives.
  - E. Report to the Executive (EX) Committee on all activities and matters relating to the annual charges of the Leadership Council.

NAIC Support Staff: Ethan Sonnichsen/Mark Sagat/Brian R. Webb

Draft: 11/4/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Innovation and Technology (EX) Task Force, Nov. 4, 2020*

## 2021 PROPOSED CHARGES

### INNOVATION AND TECHNOLOGY (EX) TASK FORCE

The mission of the Innovation and Technology (EX) Task Force is to provide a forum for regulator education and discussion of innovation and technology in the insurance sector, to monitor technology developments that affect the state insurance regulatory framework, and to develop regulatory guidance, as appropriate.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Innovation and Technology (EX) Task Force** will:
  - A. Provide forums, resources and materials for the discussion of innovation and technology developments in the insurance sector, including the collection and use of data by insurers and state insurance regulators—as well as new products, services and distribution platforms—in order to educate state insurance regulators on how these developments affect consumer protection, privacy, insurer and producer oversight, marketplace dynamics, and the state-based insurance regulatory framework.
  - B. Develop and coordinate the development of regulatory guidance, model laws or model law revisions, and white papers or make other recommendations related to innovation and technology, to the Executive (EX) Committee, as appropriate.
  - C. Discuss emerging issues related to companies or licensees leveraging new technologies to develop products for on-demand insurance purposes—in addition to potential implications on the state-based insurance regulatory structure—including, but not limited to, reviewing new products and technologies affecting the insurance space and the associated regulatory implications.
  - D. Coordinate with other NAIC committees and task forces, as appropriate, on technology, innovation, cybersecurity issues and data privacy.
2. The **Big Data and Artificial Intelligence (EX) Working Group** will:
  - A. Research the use of big data and artificial intelligence (AI) in the business of insurance and evaluate existing regulatory frameworks for overseeing and monitoring their use. Present findings and recommend next steps, if any, to the Innovation and Technology (EX) Task Force and which may include model governance for the use of big data and AI for the insurance industry.
  - B. Review current audit and certification programs and/or frameworks that could be used to oversee insurers' use of consumer and non-insurance data and models using intelligent algorithms, including AI. If appropriate, recommend to and coordinate with the appropriate subject matter expert (SME) committees on development of modifications to model laws and/or regulations and regulatory guidance and/or handbooks regarding marketing, rating, underwriting and claims, regulation of data vendors and brokers, regulatory reporting requirements, and consumer disclosure requirements.
  - C. Assess data needs and required tools for state insurance regulators to appropriately monitor the marketplace, and evaluate the use of big data and intelligent algorithms, including AI in underwriting, rating, claims and marketing practices. This assessment shall include gaining a better understanding of currently available data and tools, as well as recommendations for additional data and tools, as appropriate. Based on this assessment, propose a means to include these tools into existing and/or new regulatory oversight and monitoring processes.

INNOVATION AND TECHNOLOGY (EX) TASK FORCE *(continued)*

3. The **Speed to Market (EX) Working Group** will:
- A. Consider proposed System for Electronic Rate and Form Filing (SERFF) features or functionality presented to the Working Group by the SERFF Advisory Board, likely originating from the SERFF Product Steering Committee (PSC). Upon approval and acquisition of any needed funding, direct the SERFF Advisory Board to implement the project. Receive periodic reports from the SERFF Advisory Board, as needed.
  - B. Provide feedback and recommendations concerning the SERFF modernization when requested by the Executive (EX) Committee and any group assigned oversight of the SERFF modernization by the Executive (EX) Committee.
  - C. Discuss and oversee the implementation and ongoing maintenance/enhancement of speed to market operational efficiencies related to product filing needs, efficiencies and effective consumer protection. This includes the following activities:
    1. Provide a forum to gather information from the states and the industry regarding tools, policies and resolutions to assist with common filing issues. Provide oversight in evaluating product filing efficiency issues for state insurance regulators and the industry, particularly with regard to uniformity. Evaluate the state survey results compiled in 2020 regarding the usefulness of existing tools and potential new tools, and propose a plan to make improvements.
    2. Use SERFF data to develop, refine, implement, collect and distribute common filing metrics that provide a tool to measure the success of the speed to market modernization efforts as measured by nationwide and individual state speed to market compliance, with an emphasis on monitoring state regulatory and insurer responsibilities for speed to market for insurance products.
    3. Facilitate proposed changes to the product coding matrices (PCMs) and the uniform transmittal document (UTD) on an annual basis, including the review, approval and notification of changes. Monitor, assist with and report on state implementation of any PCM changes.
    4. Facilitate the review and revision of the *Product Filing Review Handbook*, which contains an overview of all of the operational efficiency tools and describes best practices for industry filers and state reviewers with regard to the rate and form filing and review process. Develop and implement a communication plan to inform states about the *Product Filing Review Handbook*.
  - D. Provide direction to NAIC staff regarding SERFF functionality, implementation, development and enhancements. Direct NAIC staff to provide individual state speed to market reports to each commissioner at each national meeting. Receive periodic reports from NAIC staff, as needed.
  - E. Conduct the following activities as desired by the Interstate Insurance Product Regulation Commission (Compact):
    1. Provide support to the Compact as the speed to market vehicle for asset-based insurance products, encouraging the states' participation in, and the industry's usage of, the Compact.
    2. Receive periodic reports from the Compact, as needed.

NAIC Support Staff: Scott Morris/Denise Matthews

Draft: 10/29/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Long-Term Care Insurance (EX) Task Force, Oct. 29, 2020*

## **2021 Proposed Charges**

### **LONG-TERM CARE INSURANCE (EX) TASK FORCE**

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Long-Term Care Insurance (EX) Task Force** will:
  - A. Recognizing the gravity of the threat posed by the current long-term care insurance (LTCI) environment both to consumers and our state-based system of insurance regulation, this Task Force is charged to:
    1. 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.
    2. Further evaluate and recommend options to provide consumers with choices regarding modifications to LTCI contract benefits where policies are no longer affordable due to rate increases.
    3. Deliver such a proposal to the Executive (EX) Committee by the 2021 Summer National Meeting.

NAIC Support Staff: Jeffrey C. Johnston
2. The **Long-Term Care Insurance Multistate Rate Review (EX) Subgroup** will:
  - A. 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.

NAIC Support Staff: Eric King
3. The **Long-Term Care Insurance 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. 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 long-term care (LTC) insurers.
  - C. The Subgroup should complete its charges by the 2021 Summer National Meeting.

NAIC Support Staff: Jane Koenigsman, Eric King

NAIC Support Staff: Jeffrey C. Johnston

Draft: 11/18/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Special (EX) Committee on Race and Insurance, July 14, 2020*

**2021 Proposed Charges**

**SPECIAL (EX) COMMITTEE ON RACE AND INSURANCE**

**Ongoing Support of NAIC Programs, Products or Services**

4. The **Special (EX) Committee on Race and Insurance** will:
  - A. Conduct research and analyze the level of diversity and inclusion within the insurance sector.
  - B. Engage with a broad group of stakeholders on issues related to race, diversity and inclusion in, and access to, the insurance sector and insurance products.
  - C. Examine and determine which current practices or barriers exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups.
  - D. Make recommendations to the Executive (EX) Committee and membership by year-end regarding steps: 1) both state insurance regulators and the insurance industry can take to increase diversity and inclusion within the sector; 2) that should be taken to address practices that potentially disadvantage people of color and/or historically underrepresented groups; and 3) to ensure ongoing engagement of the NAIC on these issues through charges to its committees, task forces and working groups.

NAIC Support Staff: Andrew J. Beal/Michael F. Consedine

Draft: 9/1/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Internal Administration (EX1) Subcommittee, Sept. 9, 2020*

## **2021 Proposed Charges**

### **INTERNAL ADMINISTRATION (EX1) SUBCOMMITTEE**

The mission of the Internal Administration (EX1) Subcommittee is to monitor the operations of the NAIC, including: 1) preparing a budget for Executive (EX) Committee review; 2) providing direction on personnel issues; 3) approving emergency expenditures; 4) evaluating the chief executive officer (CEO); and 5) assisting the CEO in resolving competing demands for NAIC staff resources.

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Internal Administration (EX1) Subcommittee** will:
  - A. Review and approve all expenditures of funds not included in the annual budget by considering any fiscal impact statements of unbudgeted resource requests and reporting its actions to the Executive (EX) Committee.
  - B. Annually work with the CEO, chief operating officer/chief legal officer (COO/CLO), and chief financial officer (CFO) to review the business operations plan, which will incorporate the Executive (EX) Committee's strategic management initiatives, and report its actions to the Executive (EX) Committee.
  - C. Oversee a review of any management areas of the NAIC that should be designated for formal operational reviews by working with the CEO and COO/CLO.
  - D. Oversee the development, revision and delivery of all NAIC education programs, or the addition of new programs, by coordinating with other committees, as appropriate, and providing direction to the CEO and COO/CLO.
  - E. Receive a report at each national meeting from the NAIC Audit Committee, which will be chaired by the secretary-treasurer. The NAIC Audit Committee will meet with NAIC management at or before each national meeting, or more frequently as necessary, to review the NAIC financial statements and hear reports from NAIC management on emerging financial issues for the NAIC, and it will report such information to the Internal Administration (EX1) Subcommittee. The NAIC Audit Committee shall also carry out the following activities pursuant to its charter:
    1. Engage the NAIC's independent accountants with respect to the annual audit. This will include the appointment of an independent audit firm, a review of the results of the annual audit, and discussions with the independent auditors and NAIC management to ensure that all audit comments or suggestions are addressed in a timely manner.
    2. Engage the NAIC's service advisory firm. This will include the selection of an independent firm to provide Statement on Standards for Attestation Engagements (SSAE) services to the NAIC.
  - F. Serve as the primary liaison between the NAIC membership and the NAIC investment advisor, or appoint a subcommittee to act in that capacity, including receiving reports on the performance of the NAIC's investment portfolio and, from time to time, meeting directly with investment firm representatives to hear periodic reports and recommendations.
  - G. Review and revise, as necessary and appropriate, the criteria and categories for registrants at NAIC national meetings.
  - H. Appoint the Information Systems (EX1) Task Force to provide regulator-based technology expertise.
  - I. Conduct evaluations of the CEO and COO/CLO, and make appropriate recommendations to the Executive (EX) Committee. Consult with the CEO and COO/CLO on compensation of senior management.

NAIC Support Staff: Andrew J. Beal/Jim Woody

Draft: 8/5/20

*Adopted by the Executive (EX) Committee and Plenary, TBD*

*Adopted by the Executive (EX) Committee, TBD*

*Adopted by the Internal Administration (EX1) Subcommittee, Sept. 9, 2020*

*Adopted by the Information Systems (EX1) Task Force, Aug. 5, 2020*

## 2021 PROPOSED CHARGES

### INFORMATION SYSTEMS (EX1) TASK FORCE

The mission of the Information Systems (EX1) Task Force is to: 1) provide regulator-based technology expertise to the Internal Administration (EX1) Subcommittee; and 2) support committee activities and objectives by monitoring projects that provide technical services or systems for state-based insurance regulation, as prioritized by the Executive (EX) Committee.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Information Systems (EX1) Task Force** will:
  - A. Serve as the Internal Administration (EX1) Subcommittee's project-independent technology monitor and consultant. This involves monitoring the development, deployment and operations of NAIC information technology (IT) systems and services for state insurance regulators and, based on this effort, providing reports and recommendations to the Subcommittee as appropriate. To achieve this, the Task Force will receive regular portfolio and technical operational reports.
  - B. Provide consultation to the NAIC technology staff, as well as the interpretation of intent and specific technology direction where needed. For example, from time to time, NAIC technology staff may request approval of a specific technology approach, such as a proposal to drop support for a particular version of software. The Task Force will provide direction in such matters, either directly or through a working group. Task Force members will also communicate current and future state technology changes planned for their state to alert NAIC technology staff of potential impacts and requirements for NAIC systems and services used by state insurance regulators.
  - C. Review, with technical recommendations for the Subcommittee: 1) Fiscal Impact Statements Appendix A for all *State Ahead* projects, as well as others involving a technology component exceeding \$100,000 or 1,150 hours of technology staff development and which is not limited to the support of the internal operations; and 2) project requests that involve technology being submitted to the Subcommittee or directly to the Executive (EX) Committee.

NAIC Support Staff: Cheryl McGee/Sherry Stevens

*Draft: 7/28/2020*

*Reaffirmed by the Executive (EX) Committee and Plenary, TBD*

*Reaffirmed by the Executive (EX) Committee, TBD*

*Reaffirmed by the Internal Administration (EX1) Subcommittee, Sept.30, 2020*

*Reaffirmed by the Audit Committee, Aug. 4, 2020*

**2021 PROPOSED NAIC AUDIT COMMITTEE  
Committee Charter**

1. THE **AUDIT COMMITTEE** WILL:
  - A. PROVIDE CONTINUOUS AUDIT OVERSIGHT, INCLUDING:
    1. Provide an open avenue of communication between the independent auditor and the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee.
    2. Confirm and ensure the independence of the independent auditor.
    3. Inquire of management and the independent auditor about significant risks or exposures and assess the steps management has taken to minimize such risk.
    4. Consider and review with the independent auditor:
      - a. Significant findings during the year, including the status of previous audit recommendations.
      - b. Any difficulties encountered in the course of audit work, including any restrictions on the scope of activities or access to required information.
      - c. The adequacy of internal controls, including computerized information system controls and security, as documented in the Statement on Auditing Standards (SAS) 115 letter from the independent auditor.
      - d. Related findings and recommendations of the independent auditor with management's responses, as documented in the SAS 114 letter from the independent auditor.
    5. Meet periodically with the independent auditor in separate executive sessions to discuss any matters the Committee believes should be discussed privately with the Committee.
    6. Report periodically to the Executive (EX) Committee and Internal Administration (EX1) Subcommittee on significant results of the foregoing activities.
    7. Instruct the independent auditor that the Executive (EX) Committee and Internal Administration (EX1) Subcommittee are the auditor's clients.
  - B. Provide continuous oversight of reporting policies, including:
    1. Advise financial management and the independent auditor that they are expected to provide a timely analysis of significant current financial reporting issues and practices.
    2. Inquire as to the auditor's independent qualitative judgments about the appropriateness, not just the acceptability, of the accounting principles and the clarity of the financial disclosure practices.
    3. Inquire as to the auditor's views about whether management's choices of accounting principles are conservative, moderate or aggressive from the perspective of income, asset and liability recognition, and whether those principles are common practices or minority practices.
    4. Inquire as to the auditor's views about how choices of accounting principles and disclosure practices may affect NAIC members, the insurance industry, and public views and attitudes.
  - C. Provide continuous oversight of financial management, including:
    1. Review the monthly consolidated financial statements and receive regular reports from executive management on the financial operations of the association.
    2. Meet prior to, or at, each national meeting or more frequently, as circumstances require. The Committee may ask members of management or others to attend meetings and provide pertinent information, as necessary.
    3. Report on significant results of the foregoing activities to the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee on a regular basis.
  - D. Conduct scheduled audit activities, including:
    1. Recommend the selection of the independent auditor for approval by the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee, approve the compensation of the independent auditor, and review and approve the discharge of the independent auditor.
    2. Review annually the audit scope and plan of the independent auditor with management and the independent auditor, including:
      - a. The independent auditor's audit of the financial statements, accompanying footnotes, and its report thereon.
      - b. Any significant changes required in the independent auditor's audit plans.
      - c. Any difficulties or disputes with management encountered during the course of the year under audit.

- d. Other matters related to the conduct of the audit, which are to be communicated to the Committee under generally accepted auditing standards (GAAS).
3. Review and approve needs-based funding allocations, as needed.
4. Review and update the Committee charter on at least an annual basis.
- E. Conduct other activities when necessary, including:
  1. Arrange for the independent auditor to be available to the full Executive (EX) Committee and the Internal Administration (EX1) Subcommittee, as needed.
  2. Review and approve requests for any management consulting engagement to be performed by the independent auditor, and be advised of any other study undertaken at the request of management that is beyond the scope of the audit engagement letter.
  3. Conduct and/or authorize investigations into any matters within the Committee's scope of responsibilities. The Committee shall be empowered to retain independent counsel and other professionals to assist in the conduct of any investigation.
  4. Ensure that members of the Committee receive the appropriate orientation to the Committee and receive a copy of the policy manual.

NAIC Support Staff: Jim Woody

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**UNFAIR TRADE PRACTICES ACT**

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**Section 4. Unfair Trade Practices Defined**

Any of the following practices, if committed in violation of Section 3, are hereby defined as unfair trade practices in the business of insurance:

- A. Misrepresentations and False Advertising of Insurance Policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:
- (1) Misrepresents the benefits, advantages, conditions or terms of any policy; or
  - (2) Misrepresents the dividends or share of the surplus to be received on any policy; or
  - (3) Makes a false or misleading statement as to the dividends or share of surplus previously paid on any policy; or
  - (4) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or
  - (5) Uses any name or title of any policy or class of policies misrepresenting the true nature thereof; or
  - (6) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion or surrender of any policy; or
  - (7) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any policy; or
  - (8) Misrepresents any policy as being shares of stock.

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- B. False Information and Advertising Generally. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of its insurance business, which is untrue, deceptive or misleading.
- C. Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any insurer, and which is calculated to injure such insurer.
- D. Boycott, Coercion and Intimidation. Entering into any agreement to commit, or by any concerted action committing any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.
- E. False Statements and Entries.
- (1) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of an insurer.
  - (2) Knowingly making any false entry of a material fact in any book, report or statement of any insurer or knowingly omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer, or knowingly making any false material statement to any insurance department official.
- F. Stock Operations and Advisory Board Contracts. Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to purchase insurance.
- G. Unfair Discrimination.
- (1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy.
  - (2) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any accident or health insurance policy or in the benefits payable thereunder, or in any of the terms or conditions of such policy, or in any other manner.
- Drafting Note:** In the event that unfair discrimination in connection with accident and health coverage is treated in other statutes, this paragraph should be omitted.
- (3) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

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- (4) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property.
- (5) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex, marital status, race, religion or national origin of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this section shall prohibit or limit the operation of fraternal benefit societies.
- (6) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subsection shall not apply to accident and health insurance sold by a casualty insurer and, provided further, that this subsection shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract.
- (7) Refusing to insure solely because another insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy in which that person was the named insured. Nothing herein contained shall prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance.
- (8) Violation of the state's rescission laws at [insert reference to appropriate code section].

**Drafting Note:** A state may wish to include this section if it has existing state laws covering rescission and to insert a reference to a particular code section.

H. Rebates.

- (1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any life insurance policy or annuity, or accident and health insurance or other insurance, or agreement as to such contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such policy or annuity or in connection therewith, any stocks, bonds or other securities of any company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.
- (2) Nothing in Subsection G, or Paragraph (1) of Subsection H shall be construed as including within the definition of discrimination or rebates any of the following practices:
  - (a) In the case of life insurance policies or annuities, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;
  - (b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

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- (c) Readjusting the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year; or
- (d) Engaging in an arrangement that would not violate Section 106 of the Bank Holding Company Act Amendments of 1972 (12 U.S.C. 1972), as interpreted by the Board of Governors of the Federal Reserve System, or Section 5(q) of the Home Owners' Loan Act, 12 U.S.C. 1464(q).
- (e) The offer or provision by insurers or producers, by or through employees, affiliates or third party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service:
  - (i) Relates to the insurance coverage; and
  - (ii) Is primarily designed to satisfy one or more of the following:
    - (I) Provide loss mitigation or loss control;
    - (II) Reduce claim costs or claim settlement costs;
    - (III) Provide education about liability risks or risk of loss to persons or property;
    - (IV) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;
    - (V) Enhance health;
    - (VI) Enhance financial wellness through items such as education or financial planning services;
    - (VII) Provide post-loss services;
    - (VIII) Incent behavioral changes to improve the health or reduce the risk of death or disability of a customer (defined for purposes of this subsection as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant); or
    - (IX) Assist in the administration of the employee or retiree benefit insurance coverage.
  - (iii) The cost to the insurer or producer offering the product or service to any given customer must be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.
  - (iv) If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the customer is provided with contact information to assist the customer with questions regarding the product or service.

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- (v) The commissioner may adopt regulations when implementing the permitted practices set forth in this statute to ensure consumer protection. Such regulations, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure and unfair discrimination.
- (vi) The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced upon request by the Department.

**Drafting Note:** States may wish to consider alternative language based on their filing requirements.

- (vii) If an insurer or producer does not have sufficient evidence, but has a good-faith belief that the product or service meets the criteria in H(2)(e)(ii), the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer must notify the Department of such a pilot or testing program offered to consumers in this state prior to launching and may proceed with the program unless the Department objects within twenty-one days of notice.

**Drafting Note:** This Section is not intended to limit or curtail existing value-added services in the marketplace. It is intended to promote innovation in connection with the offering of value-added services while maintaining strong consumer protections.

- (f) An insurer or a producer may:
  - (i) Offer or give non-cash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost does not exceed an amount determined to be reasonable by the commissioner per policy year per term. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.
  - (ii) Offer or give non-cash gifts, items, or services including meals to or charitable donations on behalf of a customer, to commercial or institutional customers in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost is reasonable in comparison to the premium or proposed premium and the cost of the gift or service is not included in any amounts charged to another person or entity. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.
  - (iii) Conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is

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not unfairly discriminatory. The customer may not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.

**Drafting Note:** If a state wishes to limit (f) to a stated monetary limit the committee would suggest that, at the time of the drafting of this model, the lesser of 5% of the current or projected policyholder premium or \$250 would be an appropriate limit, however specific prohibitions may exist related to transactions governed by the Real Estate Settlement Procedures Act of 1974 and the laws and regulations governing the Federal Crop Insurance Corporation Risk Management Agency. States may want to consider a limit for commercial or institutional customers.

- (3) An insurer, producer or representative of either may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words “free”, “no cost” or words of similar import, in an advertisement.

**Drafting Note:** Section 104 (d)(2)(B)(viii) of the Gramm-Leach-Bliley Act provides that any state restrictions on anti-tying may not prevent a depository institution or affiliate from engaging in any activity that would not violate Section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System has stated that nothing in its interpretation on combined-balance discount arrangements is intended to override any other applicable state and federal law. FRB SR 95-32 (SUP). Section 5(q) of the Home Owners’ Loan Act is the analogous provision to Section 106 for thrift institutions. The Office of Thrift Supervision has a regulation 12 C.F.R. 563.36 that allows combined-balance discounts if certain requirements are met.

**Drafting Note:** Each state may wish to examine its rating laws to ensure that it contains sufficient provisions against rebating. If a state does not, this section may be expanded to cover all lines of insurance.

- I. Prohibited Group Enrollments. No insurer shall offer more than one group policy of insurance through any person unless such person is licensed, at a minimum, as a limited insurance representative. However, this prohibition shall not apply to employer/employee relationships, nor to any such enrollments.
- J. Failure to Maintain Marketing and Performance Records. Failure of an insurer to maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two (2) preceding years shall be maintained.
- K. Failure to Maintain Complaint Handling Procedures. Failure of any insurer to maintain a complete record of all the complaints it received since the date of its last examination under Section [insert applicable section]. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this subsection, “complaint” shall mean any written communication primarily expressing a grievance.
- L. Misrepresentation in Insurance Applications. Making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money or other benefit from any provider or individual person.
- M. Unfair Financial Planning Practices. An insurance producer:
  - (1) Holding himself or herself out, directly or indirectly, to the public as a “financial planner,” “investment adviser,” “consultant,” “financial counselor,” or any other specialist engaged in the business of giving financial planning or advice relating to investments, insurance, real estate, tax matters or trust and estate matters when such person is in fact engaged only in the sale of policies. This provision does not preclude persons who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance. This does not permit persons to charge an additional fee for

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services that are customarily associated with the solicitation, negotiation or servicing of policies.

- (2) (a) Engaging in the business of financial planning without disclosing to the client prior to the execution of the agreement provided for in Paragraph 3, or solicitation of the sale of a product or service that
  - (i) He or she is also an insurance salesperson, and
  - (ii) That a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case.
- (b) The disclosure requirement under this subsection may be met by including it in any disclosure required by federal or state securities law.
- (3) (a) Charging fees other than commissions for financial planning by insurance producer, unless such fees are based upon a written agreement, signed by the party to be charged in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the party to be charged at the time the agreement is signed by the party.
  - (i) The services for which the fee is to be charged must be specifically stated in the agreement.
  - (ii) The amount of the fee to be charged or how it will be determined or calculated must be specifically stated in the agreement.
  - (iii) The agreement must state that the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

**Drafting Note:** This subsection is intended to apply only to persons engaged in personal financial planning.

- (b) The insurance producer shall retain a copy of the agreement for not less than three (3) years after completion of services, and a copy shall be available to the commissioner upon request.

N. Failure to file or to certify information regarding the endorsement or sale of long-term care insurance. Failure of any insurer to:

- (1) File with the insurance department the following material:
  - (a) The policy and certificate;
  - (b) A corresponding outline of coverage; and
  - (c) All advertisements requested by the insurance department; or
- (2) Certify annually that the association has complied with the responsibilities for disclosure, advertising, compensation arrangements, or other information required by the commissioner, as set forth by regulation.

O. Failure to Provide Claims History

- (1) Loss Information—Property and Casualty. Failure of a company issuing property and casualty insurance to provide the following loss information for the three (3) previous policy years to the first named insured within thirty (30) days of receipt of the first named insured's written request:

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- (a) On all claims, date and description of occurrence, and total amount of payments; and
  - (b) For any occurrence not included in Subparagraph (a) of this paragraph, the date and description of occurrence.
- (2) Should the first named insured be requested by a prospective insurer to provide detailed loss information in addition to that required under Paragraph (1), the first named insured may mail or deliver a written request to the insurer for the additional information. No prospective insurer shall request more detailed loss information than reasonably required to underwrite the same line or class of insurance. The insurer shall provide information under this subparagraph to the first named insured as soon as possible, but in no event later than twenty (20) days of receipt of the written request. Notwithstanding any other provision of this section, no insurer shall be required to provide loss reserve information, and no prospective insurer may refuse to insure an applicant solely because the prospective insurer is unable to obtain loss reserve information.
- (3) The commissioner may promulgate regulations to exclude the providing of the loss information as outlined in Paragraph (1) for any line or class of insurance where it can be shown that the information is not needed for that line or class of insurance, or where the provision of loss information otherwise is required by law.

**Drafting Note:** Loss information on workers' compensation is an example in some states of loss information otherwise required by law.

- (4) Information provided under Paragraph (2) shall not be subject to discovery by any party other than the insured, the insurer and the prospective insurer.

**Drafting Note:** This provision may not be required in states that have a privacy act that governs consumer access to this information. Those states considering applying this requirement to life, accident and health lines of insurance should first review their state privacy act related to issues of confidentiality of individual insured information.

P. Violating any one of Sections [insert applicable sections].

**Drafting Note:** Insert section numbers of any other sections of the state's insurance laws deemed desirable or necessary to include as an unfair trade practice, such as cancellation and nonrenewal laws.

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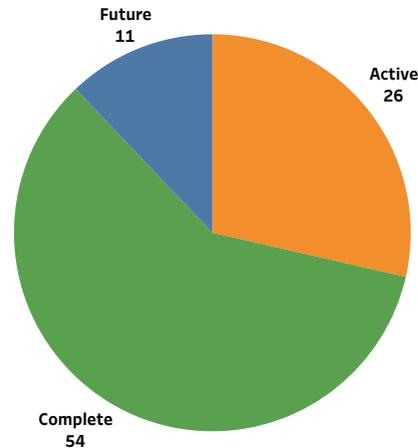
*Chronological Summary of Actions (all references are to the Proceedings of the NAIC).*

1947 Proc. 383, 392-400, 413 (adopted).  
1960 Proc. II 485-487, 509-515, 516 (reprinted).  
1972 Proc. I 15, 16, 443-444, 491, 493-501 (amended and reprinted).  
1977 Proc. I 26, 28, 211, 226-227 (amended).  
1979 Proc. II 31, 34, 38, 39, 525 (amended).  
1985 Proc. I 19, 39, 85-86 (amended).  
1989 Proc. II 13, 21, 129-130, 132, 133-140) (amended and reprinted).  
1990 Proc. I 6, 25, 122, 146 (changed name of model).  
1990 Proc. II 7, 13-14, 160, 169-177 (amended and reprinted).  
1991 Proc. I 9, 16, 192-193, 196-203 (amended and reprinted).  
1993 Proc. I 8, 136, 242, 246-254 (amended and reprinted).  
1993 Proc. 1<sup>st</sup> Quarter 3, 34, 267, 274, 276 (amended).  
2001 Proc. 2<sup>nd</sup> Quarter 7, 9, 836, 843-853 (amended and reprinted).

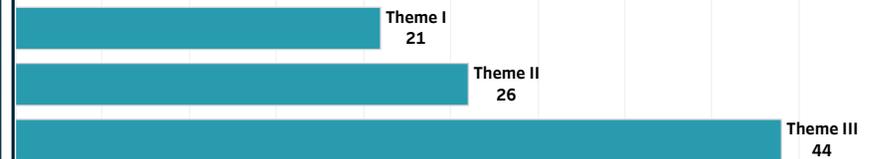


## State Ahead Status Reporting - November 2020

Current Project Phase



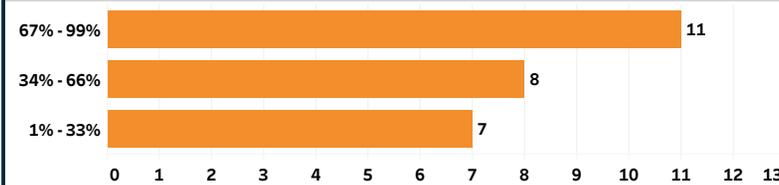
Projects by Strategic Themes



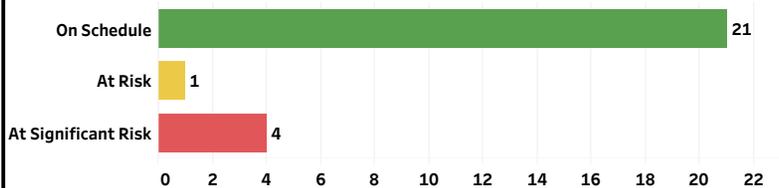
Projects by Strategic Goals



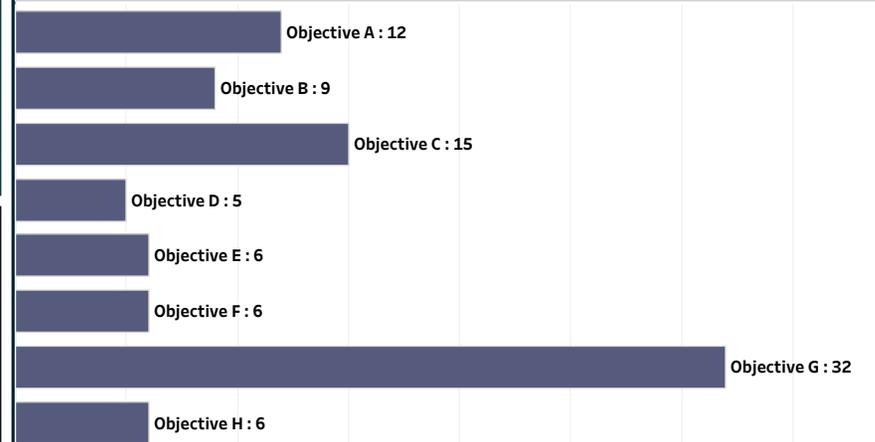
Progress On Active Projects



Current Status of Active Projects



Projects by Strategic Objectives



Draft: 12/7/20

### Model Law Development Report

**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 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 it 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 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 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 anticipates resuming its meetings in 2021 and completing its work by the end of 2021.

**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, meeting 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 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. The Working Group is currently awaiting additional direction from the Committee before resuming 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 Health Maintenance Organization (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 to consider recommendations from the Virginia Insurance Bureau on revising Model #430 consistent with its charge. During its Nov. 21, 2019, meeting, the Working Group decided to move forward with revising Model #430 based on recommendations from the Maine Bureau of Insurance (BOI). The Subgroup adopted the revisions to Model #430 on July 13, 2020. The Regulatory Framework (B) Task Force adopted the revisions on Sept. 24. The Health Insurance and Managed Care (B) Committee adopted the revisions on Nov. 2. The Executive (EX) Committee and Plenary will consider adoption of the revised model during its meeting at the Fall 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 Financial Condition (E) Committee adopted changes to Model #440 and Model #450 on Nov. 19, 2020, which enabled the NAIC Group Capital Calculation (GCC) and the Liquidity Stress Test, which is part of the NAICs macroprudential surveillance initiative. The Executive (EX) Committee approved a subsequent Request for NAIC Model Law Development for amendments to Model #440 and Model #450 at the 2020 Summer National Meeting. The Receivership Law (E) Working Group met Oct. 29 and Aug. 25 to begin developing revisions to Section 5 of Model #440 and Section 19 of Model #450 that address

the issue of continuation of essential services by affiliates in receivership. The Working Group will expose the draft revisions for a public comment period during a future meeting.

**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 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 meetings 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. The Working Group is currently awaiting additional instruction from the Life Insurance and Annuities (A) Committee before resuming 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. The COVID-19 pandemic has prevented the Working Group from working on Model #630; a future request for extension of the work is expected to come before the Committee.

**Amendments to the *Standard Nonforfeiture Law for Individual Deferred Annuities* (#805)**—The Executive (EX) Committee approved the Request for NAIC Model Law Development to amend Model #805 at the 2020 Summer National Meeting. The Life Actuarial (A) Task Force adopted a revision that proposed changing the minimum nonforfeiture interest rate from 1% to 0.15% on Oct. 8, 2020. The Life Insurance and Annuities (A) Committee adopted the revision to the model on Nov. 10, 2020.

**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 meeting on Jan. 27, 2020, followed by three more meetings. Five drafts were discussed, and the drafting group disbanded on June 17, 2020. The draft coming out of that work was distributed and posted to the NAIC website for comment. The Innovation and Technology (EX) Task Force discussed the draft language during its meeting at the Summer National Meeting. Since then, three more drafts followed by comment periods have taken place. During a meeting on Nov. 30, oral presentations were made by various commenters on the draft dated Oct. 30. Based on comments submitted Nov. 18 and during the Nov. 30 meeting, an updated draft was published on Dec. 2. The Task Force adopted the draft during its meeting on Dec. 4.

**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 on Oct. 19, 2020, and adopted the model during its Nov. 13 meeting. The Property and Casualty Insurance (C) Committee will consider the model for adoption on Dec. 8 at the Fall National Meeting.

**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 meeting 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. The Working Group will request an extension of time to continue drafting the model during the Fall National Meeting. The Working Group has received comments on all sections of the new model and is now moving through revisions for final comment. The Working Group plans to consider adoption of the model in early 2021.

**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 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 July 16, 2020, 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. The Subgroup discussed the comments received on the proposed new model during a series of meetings in September and October. The Subgroup adopted the proposed new model on Oct. 29 and forwarded it to the Regulatory Framework (B) Task Force for consideration of adoption. The Regulatory Framework (B) Task Force discussed the proposed new model during its Nov. 19 meeting. The Task Force deferred adopting the proposed new model and exposed it for an additional 30-day public comment period.

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