

Draft: 11/29/23

E-Commerce (H) Working Group  
Virtual Meeting  
November 20, 2023

The E-Commerce (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met November 20, 2023. The following Working Group members participated: Judith L. French, Co-Chair (OH); Troy Downing, Co-Chair (MT); Michael Humphreys, Vice-Chair (PA); Jully Pae (CA), George Bradner (CT), Johanna Nagel (IA); Cathy Abbott (KS); Tom Travis (LA); Cynthia Amann (MO); Matt Fischer (ND); Elizabeth Kelleher Dwyer (RI); and Charles Malone (WA).

1. Considered Adoption of Its Sept. 7 Minutes

Amann made a motion, seconded by Malone to adopt the Working Group's Sept. 7, 2023, meeting minutes (Attachment Four-A). The motion passed unanimously.

2. Discussed the Draft E-Commerce Modernization Guide and its Adoption

Director French reminded the Working Group that the draft document was exposed for a 30-day public comment period that ended on Oct. 9. She stated that after receiving comments, the Working Group chairs and NAIC staff worked together to create the draft document included in this meeting's materials. Director French explained that the draft document is now called the *E-Commerce Modernization Guide* (Guide). She further stated that in the interest of giving Working Group members, interested regulators, and interested parties a chance to review the document, the Working Group has decided to consider adopting the Guide early next year, once the Working Group has reformed and has had the chance to review the draft.

Olivea Myers (NAIC) provided the Working Group with a brief overview of what has changed in the Guide since the comment period ended. Myers noted that the document's name had changed from a framework to the *E-Commerce Modernization Guide* to better fit with the purpose of the Guide. She further explained that the document was then called a framework which tends to be a bit more descriptive of the system of regulation, something this document did not do. Myers stated that the document further evolved into the *E-Commerce Modernization Guide* because its main purpose is to enumerate different modernization tools and to provide guidance regarding e-commerce topics for states that may consider updating applicable laws and regulations within their state. Myers explained that the Working Group received comments from the American Council of Life Insurers (ACLI), the Insured Retirement Institute (IRI), and Northwestern Mutual. She explained that these changes are incorporated within the document. Myers stated that a bullet format was used to incorporate the comments received. Finally, Myers stated due to feedback that was received at the Sept. 7 meeting, NAIC staff removed the use of artificial intelligence (AI), advertising approval, and use of telematics from the document as other committees and task forces are addressing these topics at the NAIC.

Amann mentioned that the Working Group should be mindful of overlap between the work of the Privacy Protections (H) Working Group and the E-Commerce (H) Working Group. Amann explained that she will keep up with what both groups are working on so that there is unified guidance in the Guide and the *Insurance Consumer Privacy Protection Model Law #674*. Director French asked Amann if she saw any inconsistencies between the Guide and the model law. Amann responded that there were none.

Dave Leifer (ACLI) stated that the document has improved and that the new title was a positive change. He stated that there does not seem to be a lot of mention of the state insurance regulator or company experience in the document. Leifer provided examples such as producer licensing exams being administered online and online company filings that have been allowed to be completed electronically due to the COVID-19 pandemic. Leifer explained that the ACLI's view on opt-in/opt-out of electronic communication, including e-signatures or e-delivery, is that there should not be one that is preferential over the other. He explained that every consumer should have the right to choose which one they prefer.

Sarah Wood (IRI) stated that she appreciates the work the Working Group has completed thus far and that the current Guide and its new name are helpful. Wood stated that this work is crucial to develop uniform and meaningful guidance. Wood stated that the members of the IRI would still like the Working Group to develop a model bulletin or guidance to address the issues enumerated in the Guide further. Wood stated that the IRI is working on identifying specific recommendations she can share with the Working Group, including issues regarding annuity replacement disclosures.

### 3. Discussed Its Next Steps

Director French explained the next steps for the Working Group. She explained that the current plan is to have another meeting early next year to consider adoption of the Guide. Director French explained that some steps for the Working Group to consider are to possibly receive presentations from industry experts related to commercial line specific modernization ideas, receive presentations from states identifying future areas to add to the publication, and create a reference library of language that states have used in adopting modernization.

### 4. Discussed Other Matters

Commissioner Downing asked the Working Group to see if anyone had any sense of urgency to consider adoption of the Guide this year. Director French stated that the Working Group did not want to go too long into next year to adopt the Guide, and the plan is to consider adoption of the Guide early next year.

Having no further business, the E-Commerce (H) Working Group adjourned.

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