

## **EXECUTIVE (EX) COMMITTEE**

Executive (EX) Committee Minutes of Dec. 6, 2009

Executive (EX) Committee Interim Meeting Minutes dated Nov. 17, 2009 and Oct. 20, 2009

(Attachment One)

Formation of a Title Insurance Issues (C) Task Force and Market Information Systems (D) Task Force

(Attachment Two)

Model Law Development Request for Risk-Based Capital (RBC) for Fraternal Benefit Societies Model Act

(Attachment Three)

Executive (EX) Committee  
San Francisco, CA  
December 6, 2009

The Executive (EX) Committee met in San Francisco, CA, Dec. 6, 2009. The following Committee members participated: Roger A. Sevigny, Chair (NH); Jane L. Cline, Vice Chair (WV); Susan E. Voss, Vice President (IA); Kevin M. McCarty, Secretary-Treasurer (FL); Sandy Praeger, Most Immediate Past President (KS); Linda S. Hall (AK); Thomas R. Sullivan (CT); James J. Donelon (LA); Morris J. Chavez (NM); Kim Holland (OK); Joel Ario (PA); Scott H. Richardson (SC); Merle D. Scheiber (SD); Leslie A. Newman (TN); Kent Michie (UT); Paulette Thabault (VT); and Sean Dilweg (WI).

1. Consider Adoption of Nov. 17 and Oct. 20 Interim Meeting Minutes

Commissioner Sevigny reported the Executive (EX) Committee met via conference call Nov. 17 and Oct. 20 to consider the residential mortgage-backed securities (RMBS) proposal and selection of a vendor for the 2009 modeling of RMBS. Commissioner Voss made a motion to adopt the minutes of the interim meetings of the Executive (EX) Committee of Nov. 17 and Oct. 20 (Attachment One). The motion was seconded by Director Hall and passed.

2. Consider Adoption of the Report of the Joint Meeting of the Executive (EX) Committee and Internal Administration (EX1) Subcommittee

Commissioner Sevigny reported the Committee and Internal Administration (EX1) Subcommittee met in joint session Dec. 5.

During the joint meeting, the Committee and Subcommittee adopted the minutes of the Subcommittee's Sept. 21 and Nov. 4 meetings. The Nov. 4 minutes reflected the Subcommittee's public hearing regarding the NAIC's 2010 budget proposal and subsequent adoption of the proposal, with a recommendation the 2010 budget be adopted by the full membership at the Joint Executive (EX) Committee/Plenary session Dec. 7.

The Committee and Subcommittee adopted the report of the Audit Committee, which included: (1) a report on the financial results through Oct. 31; (2) an update on 2009 financial projections and the results of cost-control measures implemented by NAIC management; (3) strong investment performance vs. benchmarks through Oct. 31; and (4) an update on database fee collections and an update on NAIC grant fund usage. The Audit Committee also met with a representative from Mayer Hoffman McCann, the NAIC's independent auditor, regarding the scope and plan for the 2009 audit. The Committee and Subcommittee also adopted the report of the Information Systems (EX1) Task Force, which included its review of member-approved information technology projects.

The Committee and Subcommittee approved the NAIC's 2010 program budget, which will be published as part of the 2010 budget proposal to be considered for adoption at the Joint Executive (EX) Committee/Plenary session Dec. 7. The Committee and Subcommittee held a discussion regarding health reform legislation and agreed with the need to (1) preserve state review of health insurance rates; and (2) collect industry data for enhanced evaluation of market conduct and trends.

The Committee and Subcommittee consulted with NAIC staff regarding the market regulation accreditation initiative. There was general agreement regarding the creation of a new Market Regulation Accreditation (EX) Task Force reporting to the Executive (EX) Committee, to continue evaluating proposals considered by the Market Regulation Accreditation (D) Working Group in 2009. The Committee and Subcommittee discussed efforts to raise the level of priority assigned to multi-state enforcement actions and the work of the Market Analysis (D) Working Group, and requested proposed charges for a Multi-State Enforcement (EX) Task Force for consideration by the Executive (EX) Committee and creation as part of the 2010 committee assignment process.

The Committee and Subcommittee received a report of the Emergency Procedures (EX) Subgroup, which was charged with considering any necessary changes to NAIC processes to accommodate items arising on an emergency basis. The Subgroup recommended making no changes to the NAIC Bylaws, concluding that the existing bylaws provide the Committee with the necessary discretion in managing the affairs of the NAIC on an ordinary or emergency basis.

The Committee and Subcommittee received an update on the NAIC's modeling and assessment process for non-agency RMBS. On Dec. 2, the Valuation of Securities (E) Task Force adopted the assumptions to be used in the modeling process. The Committee and Subcommittee discussed the \$4.6 million assessment of the RMBS project's estimated cost to those insurers investing in RMBS. Correspondence and assessment invoices were distributed to the 1,621 companies investing in RMBS, and details of the assessment were distributed to all NAIC members and chief financial regulators this week.

Commissioner Donelon made a motion, seconded by Commissioner Newman, to adopt the joint report of the Committee and Subcommittee. The motion passed.

3. Consider for Approval Formation of Title Insurance Issues (C) Task Force and Market Information Systems (D) Task Force

Commissioner Sevigny said the Committee had requests to form a Title Insurance Issues (C) Task Force under the Property and Casualty Insurance (C) Committee and a Market Information Systems (D) Task Force under the Market Regulation and Consumer Affairs (D) Committee (Attachment Two).

Superintendent Chavez made a motion, seconded by Commissioner Voss, to approve the request from the Property and Casualty Insurance (C) Committee. The motion passed.

Commissioner Holland made a motion, seconded by Commissioner Donelon, to approve the request from the Market Regulation and Consumer Affairs (D) Committee. The motion passed.

4. Consider for Approval an Additional Charge for the Financial Condition (E) Committee

Commissioner Sevigny said there was a request for an additional proposed charge for the Financial Condition (E) Committee. The NAIC received a request for assistance from the Financial Crimes Enforcement Network (FinCEN), a division of the U.S. Department of the Treasury. FinCEN is responsible for the administration of federal anti-money laundering (AML) laws. To enforce these laws, there are regular examinations of certain financial institutions subject to AML laws, including insurance companies. Currently, the IRS performs the examinations on behalf of FinCEN.

FinCEN approached the NAIC for assistance due to the members' expertise in examining insurance companies. The requested assistance includes (1) reviewing FinCEN's new *Examination Handbook*; (2) providing educational assistance; and (3) considering assistance with AML examinations. There might also be discussion of incorporating AML examinations in routine financial examinations and sharing the resulting information with FinCEN.

The proposed charge is for the Financial Condition (E) Committee's Examination Oversight (E) Task Force (or other appropriate group) to form a subgroup to meet with FinCEN to (1) review the FinCEN *Examination Handbook* and provide appropriate feedback; (2) determine educational assistance the NAIC might offer FinCEN; and (3) consider examination assistance by the states to FinCEN as appropriate.

Upon a motion by Commissioner Michie, seconded by Commissioner Ario, the Committee approved the charge for the Financial Condition (E) Committee.

5. Consider Adoption of Model Law Development Request for *Risk-Based Capital (RBC) for Fraternal Benefit Societies Model Act*

Commissioner Gross presented the Financial Condition (E) Committee request to draft an RBC model act for fraternal benefit societies (Attachment Three). The model act would improve state regulatory authority to require corrective action as a result of a fraternal society having less than the minimum amount of capital as calculated by the applicable RBC formula. Some states have already applied RBC to fraternal through separate laws or by adding fraternal to their life RBC laws. A fraternal RBC formula is already under construction, and in developing the proposed model act, the Capital Adequacy (E) Task Force will complete any further adjustments to the formula.

Upon a motion by Commissioner Dilweg, seconded by Director Hall, the Committee approved the request for model law development.

## 6. Consider Adoption of Committee Task Force and Working Group Reports

Commissioner Sevigny referred to the written reports of the 11 appointed Executive (EX) Committee working groups and task forces:

- AIG Managing (EX) Task Force has met as needed and in regulator-to-regulator sessions, pursuant to the NAIC Policy Statement on Open Meetings, to continue to monitor issues related to American International Group (AIG).
- Broker Compensation (EX) Task Force has met as needed and in regulator-to-regulator sessions, pursuant to the NAIC Policy Statement on Open Meetings, to evaluate the potential impact on existing multi-state regulatory settlement agreements of modifications made to similar settlement agreements by third parties
- Climate Change and Global Warming (EX) Task Force will host a Climate Risk Summit Dec. 9. The Summit will include four sessions on these climate-related topics: (1) climate change and investment, (2) climate science and risk modeling, (3) public policy issues and new insurance products; and (4) transparency and disclosure of climate-related risks.
- Government Relations (EX) Leadership Council will meet Dec. 9 to receive updates on the status of health insurance reform and financial regulatory reform.
- International Insurance Relations (EX) Leadership Group meets weekly to discuss strategic issues related to the NAIC's involvement in international activities. The Leadership Group has recently focused on the European Union's Solvency II initiative and the EU's approach to evaluating "third countries" for "equivalence" to their supervision of reinsurance and groups. The Leadership Group continues to monitor the strategic planning process at the International Association of Insurance Supervisors (IAIS) by actively participating in two IAIS Executive Committee groups: the Financial Stability Task Force and the Common Assessment Framework Task Force, which was created for "design and research into the practicality of a common assessment framework for group supervision." The Leadership Group has reviewed the input of the NAIC and the membership into the Financial Sector Assessment Program being conducted by the International Monetary Fund on the U.S. system of financial regulation, the detailed report of which is expected to be published in February 2010.
- Long-Term Care (EX) Task Force met Dec. 6. The Task Force discussed its work plan, the NAIC *Long-Term Care Experience Report*, identification of closed blocks of business and pricing risk factors.
- Military Sales (EX) Working Group gave an update on the NAIC Restitution Tool released April 2009, through which individuals can conduct a search on the NAIC Web site to identify if they are entitled to restitution and the possible amount of restitution due based on improper sale of insurance and investment products to U.S. military service members. As of Dec. 1, the NAIC search tool had 16,259 unique users, 30,255 searches and 1,860 hits (first and last name matches). American Amicable reported that during the period April 23–Nov. 17, it received 161 inquiries regarding a hit on the search tool, issued 305 checks and paid \$56,504.86 in restitution to policyholders. The Working Group continues to address issues raised in the U.S. Government Accountability Office's May 2009 report titled, "Insurance Sales to Military Personnel: Additional Actions Needed to Prevent Improper Life Insurance Sales and Pay Allotment Transactions." In response to a recommendation that the NAIC and U.S. Department of Defense (DoD) improve the sharing of information on enforcement actions, the NAIC finalized a report to share with the DoD regarding inappropriate insurance marketing and sales activities to military service members as reported to the following NAIC databases: Regulatory Information Retrieval System, Special Activities Database and Complaints Database System. The report will be provided to the DoD by year-end 2009.
- Producer Licensing (EX) Task Force met Sept. 23 and adopted the Timeline for Reciprocity Certification, which outlines a process under the NARAB (EX) Working Group similar to the 2002 certification process, in which states complete a checklist and self-certify whether they are reciprocal, followed by interested party comments and review by the NAIC Legal Division and the Working Group. The Task Force also (1) adopted its 2010 proposed charges and the report of the Producer Licensing (EX) Working Group; (2) discussed the business-entity licensing process; (3) received an update from the NAIC/Industry Producer Licensing Coalition; and (4) received an update from the NIPR Board of Directors regarding the Attachments Warehouse for the reporting of actions. The Task Force will meet Dec. 7 to discuss the business-entity licensing process and receive routine reports and updates.
- SVO Initiatives (EX) Working Group continues to follow the work of the Rating Agency (E) Working Group to address issues that might have an impact on the concept of the NAIC forming a nonprofit nationally recognized statistical rating organization.

- Solvency Modernization Initiative (EX) Task Force made significant process in the study of potential changes to the U.S. solvency system. On Dec. 3, the International Solvency (EX) Working Group met jointly with the IAIS Solvency and Actuarial Issues Subcommittee to review the implementation of enterprise risk management regulatory requirements around the world. The Working Group published two documents for comment: one on capital requirements and high-level accounting/valuation issues and one on corporate governance and risk management. The Working Group plans an interim meeting to review comments received. The Group Solvency Issues (EX) Working Group published four documents for comment: revisions to the *Insurance Holding Company System Regulatory Act* (#440) and *Insurance Holding Company System Model Regulation* (#450), including supervisory college considerations; areas for possible enhancement with regard to group supervision; an IAIS guidance paper related to unregulated entities; and regulator monitoring best practices with regard to specific holding company risks. At its upcoming meeting, the Task Force will review IAIS governance work and receive reports on working group activities and the Systemic Risk Panel presented Dec. 3.
- Speed to Market (EX) Task Force will meet Dec. 6 to receive reports from (1) Operational Efficiencies (EX) Working Group, which includes a progress report on the *Product Filing Review Handbook*; (2) National Standards (EX) Working Group; (3) IIPRC, detailing SERFF upgrades and growth in registered filers and filings made; (4) SERFF, which includes recognition that only five states have outstanding implementation initiatives and that all states using SERFF are ready to receive the new Medicare supplement plan filings via SERFF; and (5) SERFF Board, which includes marketing, implementation and usage reports, as well as strategic development and use of SERFF for access to filings.

Upon a motion by Commissioner Ario, seconded by Commissioner Cline, the Committee adopted its task force and working group reports.

#### 7. Receive Quarterly Reports on Model Law Development Efforts

Commissioner Sevigny referred members to the written reports on ongoing model law development efforts:

- Amendments to *Insurance Holding Company System Regulatory Act* (#404) and Amendments to *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450). The Executive (EX) Committee adopted this request at the 2009 Fall National Meeting. The Group Solvency Issues (EX) Working Group is considering comments received on the proposed revisions to these models. The Working Group intends to ask the Financial Condition (E) Committee for input on the proposed amendments when drafting is complete.
- Amendments to *Standard Nonforfeiture Law for Life Insurance* (#808). The Executive (EX) Committee adopted this request at the 2007 Summer National Meeting. The revisions delink interest rates from the valuation interest rate and link them to the formula applicable under a principles-based reserving system. Development of these amendments is on hold, pending approval of the principle-based reserving system authorized by the *Standard Valuation Law* (#820).
- Amendments to *Suitability in Annuity Transactions Model Regulation* (#275). The Executive (EX) Committee adopted this request at the 2008 Summer National Meeting. Following the 2009 Fall National Meeting, the Suitability in Annuity Sales (A) Working Group reviewed comments received on a new draft and held discussions with various stakeholders. Revised drafts dated Nov. 16 and Nov. 27 have since been developed. On Dec. 1, the Working Group adopted the current draft, which will be presented to the Life Insurance and Annuities (A) Committee Dec. 6.
- Amendments to *Annuity Disclosure Model Regulation* (#245). The Executive (EX) Committee adopted this request at the 2008 Fall National Meeting. The Annuity Disclosure (A) Working Group is close to completing its work and expects to finish by the 2010 Spring National Meeting. The Working Group planned to discuss annuity illustration guidelines and the buyer's guides during the Winter National Meeting. At the Fall National Meeting, the Life Insurance and Annuities (A) Committee adopted the Working Group's recommendation for the Receivership and Insolvency (E) Task Force to consider revising the *Life and Health Insurance Guaranty Association Model Act* (#520) to include the updated guaranty fund coverage disclosure notice.
- Amendments to *Nondiscrimination of Health Insurance Coverage in the Group Market Model Regulation* (#107). The Regulatory Framework (B) Task Force is amending this model for consistency with the federal Genetic Information and Nondiscrimination Act of 2008 (GINA). Further work is on hold pending the recently issued final interim regulations promulgated by the federal agencies charged with administering GINA. During an Oct. 13 meeting, the Task Force decided to defer action on the amendments until activities related to federal health care reform are completed.

- Amendments to *Small Employer Health Insurance Availability Model Act (Prospective Reinsurance with or without and Opt-out)* (#118). The Regulatory Framework (B) Task Force is amending this model for consistency with the special enrollment provisions under the federal State Children's Health Insurance Program (SCHIP) Reauthorization bill. Further work is on hold pending the promulgation of regulations by the federal agencies charged with administering the federal law. During an Oct. 13 meeting, the Task Force decided to defer action on the amendments until activities related to federal health care reform are completed.
- Amendments to *Individual Health Insurance Portability Model Act* (#37). The Regulatory Framework (B) Task Force is amending this model for consistency with GINA. Further work is on hold pending the recently issued final interim regulations promulgated by the federal agencies charged with administering GINA. During an Oct. 13 meeting, the Task Force decided to defer action on the amendments until activities related to federal health care reform are completed.
- Amendments to *Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act* (#651). The Executive (EX) Committee adopted this request at the 2007 Summer National Meeting. The Accident and Health Working Group requested assistance from the American Academy of Actuaries on the redesign of the Medicare supplement insurance refund formula, and the Working Group is in the process of considering the response.

#### 8. Receive the Report of the NIPR Board of Directors

Director Hall, chair of the NIPR Board, reported that the NIPR Board of Directors met Dec. 4 and approved the final set of internal policies as recommended by outside counsel. The Board elected its 2010 officers: Director Hall was re-elected president, William Anderson (National Association of Insurance and Financial Advisors) was re-elected vice president, and Commissioner Newman was re-elected secretary/treasurer. The Board also approved the 2010 budget, which included the addition of four staff positions, and a minor change to the NIPR Bylaws to reflect the title of Dr. Terri Vaughan (NAIC). The Board affirmed revisions to NIPR's mission and vision statements, as well as the Board goals.

Director Hall said NIPR is making good progress in achieving the one-stop-shopping vision, with the expectation that all states will soon be participating. Forty-nine jurisdictions participate in the Reporting of Actions product, facilitating compliance with state reporting requirements in all states where a producer is licensed.

#### 9. Receive the Report of the SERFF Board and Ratify Newly Elected Members

Director Hudson, chair of the SERFF Board, reported that SERFF usage through October 2009 is down approximately 6% compared to the same time last year. Since the Fall National Meeting, the SERFF marketing team has licensed 25 companies, and more than 2,950 unique companies are currently licensed. In October, SERFF staff participated in the Association of Insurance Compliance Professionals national conference, as well as the Southeastern Regulators Association conferences.

Nearly all states have implemented SERFF for all lines and speed-to-market initiatives. The implementation of Medicare supplement changes to the Product Coding Matrix was completed Nov. 1, and 51 jurisdictions will accept Medicare supplement filings via SERFF. The next major release of SERFF, version 5.8, is being tested and is scheduled for a Dec. 9 release.

The Board approved the proposed 2010 budget in October. The Board established an Access to Filings Working Group, which is in the process of identifying key questions associated with request to provide public access to filings in SERFF.

Following the Fall National Meeting, board members were elected to fill expiring terms. Bill Lacy (AR) was re-elected to another year term, Fred Alvarado (Aegon) was re-elected to another life/health term, Theresa Boyce (ACE) was elected as a property/casualty member, and the American Insurance Association (AIA) appointed Robert Yass to a two-year term representing property/casualty insurers. Commissioner Voss was reappointed for another term as a commissioner member.

Upon a motion by Commissioner Voss, seconded by Commissioner Holland, the Committee ratified the election and appointment of the SERFF Board.

10. Receive Report of the Interstate Insurance Product Regulation Commission (IIPRC)

Director Hudson, chair of the IIPRC, reported that the IIPRC, jointly with its Management Committee, met Dec. 4. There was a public hearing to receive comments on uniform standards for three annuity benefit features for guaranteed minimum death benefits and guaranteed living benefits. The Management Committee will take any additional comments received before the public participation period closes at the end of December and will consider these standards for adoption at its next meeting.

The Management Committee approved a short-term pricing incentive—10% off the annual registration fee, if paid on or before Jan. 31, 2010—to encourage companies to pay their 2010 annual registration fee as early as possible. By the end of the year, the IIPRC will have doubled its number of registrations and number of filings over its 2008 level: 74 companies and more than 200 filings.

The Management Committee received reports from (1) Communications Committee, which reviewed the largely positive results of an IIPRC survey conducted by an independent organization; (2) Rulemaking Committee, which recommended a draft rule laying for a limited self-certification filing process; and (3) Products Standards Committee, which is nearing completion on the entire bundle of uniform standards for individual long-term care products and will develop an outreach program to provide information on how the long-term care standards work. The Management Committee received an update regarding the outlook for non-compacting state legislative activity. The Management Committee formed an exploratory committee to study a proposal to create a category of associate membership for the states that have not yet joined the IIPRC, but have introduced the legislation in the past and wish to take proactive steps to embrace the uniform standards. The exploratory committee will look at the benefits and disadvantages to creating this membership category, the eligibility criteria and the steps involved in creating this new category.

The IIPRC recognized Commissioner Michie for his dedicated service to the IIPRC, both before and since it became operational in 2006.

Having no further business, the Executive (EX) Committee adjourned.

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Executive (EX) Committee  
Conference Call  
November 17, 2009

The Executive (EX) Committee met via conference call Nov. 17, 2009. The following Committee members participated: Roger A. Sevigny, Chair (NH); Susan E. Voss, Vice President (IA); Kevin McCarty, Secretary-Treasurer (FL); Sandy Praeger, Most Immediate Past President (KS); Linda S. Hall (AK); Thomas R. Sullivan (CT); James J. Donelon (LA); Kim Holland (OK); Joel Ario (PA); Scott H. Richardson (SC); Merle D. Scheiber (SD); Leslie A. Newman (TN); Kent Michie (UT); Paulette Thabault (VT); and Sean Dilweg (WI).

1. Consideration of Selection of Vendor for 2009 Modeling of Residential Mortgage-Backed Securities (RMBS)

Commissioner Sevigny provided a brief history of the RMBS project, recapping the Executive (EX) Committee approval of the NAIC's release of a request for proposal (RFP) to solicit vendor proposals to model expected losses of non-agency RMBS to be used to identify the risk-based capital (RBC) charges of RMBS owned by all U.S.-domiciled insurance companies. The Executive (EX) Committee also approved an NAIC expenditure to hire an external consultant to advise and assist with the RMBS initiative, to help review the RFP and determine the assumptions to be used in the modeling process.

Commissioner Sevigny explained the RMBS project has three phases. The first phase is related to the RFP and vendor selection. The second phase is determining the assumptions to be used in the modeling process. The third phase is the actual implementation of the modeling process to determine the expected losses per security and map them to NAIC designations used as the basis for determining insurers' RBC charges.

Andrew J. Beal (NAIC) provided an overview of the project, stating that discussions would take place at the Winter National Meeting as to future exploration of alternatives for valuation of other asset classes. Mr. Beal stated the NAIC hired the Oliver Wyman consulting firm to assist with the project for the short term and hired an individual consultant with more than 10 years of rating and modeling experience to be based at the SVO to assist with the implementation of the process over the next three months. The Valuation of Securities (E) Task Force will determine the assumptions after receiving public comments. Mr. Beal introduced Sid Sankaran of the Oliver Wyman consulting firm to discuss the vendor-selection process.

Mr. Sankaran restated the purpose of the project and noted the selected vendor must complete the modeling of more than 18,000 non-agency RMBS by Dec. 18. He stated that, following the selection of the vendor, the modeling assumptions must be determined and approved, quality assurance and validation must be conducted on the vendor analyses and results delivered to insurers by year-end. The RFP was distributed Oct. 23 to 35 vendors with a response deadline of Nov. 4. A vendor conference call was held Oct. 29 to answer questions from the vendors. Ultimately, 24 responses to the RFP were received. Various NAIC staff and consultants conducted a high-level review of the responses, focusing specifically on completeness and overall quality of the response to the specific requirements and sample analyses of 26 securities listed in the RFP. The 24 vendors were narrowed to 11 vendors upon whom a comprehensive analysis was conducted by the NAIC staff and the consulting team. Score cards were developed for each vendor based on criteria elicited in the RFP, market standard methodologies and best practices in risk management. The vendors were then narrowed to a short list of four. Follow-up information was requested from each of the four vendors to clarify specific points in their RFP response related to management of potential conflicts of interest, methodology, infrastructure and implementation. The final two vendors were further evaluated during Web-based conference calls conducted to discuss methodology, resourcing, pricing and other implementation matters. The key criteria evaluated for final selection included qualification and name recognition, viability of methodology, comprehensiveness of outputs, ease of implementation, post-transaction support, and contractual requirements and fees. Pacific Investment Management Company (PIMCO) Advisory emerged as the recommended vendor. The team has recommended the selection of PIMCO Advisory based on the soundness of their methodology, ability to meet the aggressive due date and fees.

Commissioner Michie made a motion, seconded by Commissioner Holland, to accept the recommendation and award the RMBS modeling contract to PIMCO Advisory. The motion passed.

Mr. Beal explained that the next steps in the project will be to begin to finalize a contract with the vendor and to determine the modeling assumptions. It is expected a draft set of assumptions will be distributed for review to the Valuation of Securities (E) Task Force by Nov. 23, with a public release of the draft assumptions scheduled for Nov. 25. There will be an open call of the Valuation of Securities (E) Task Force Nov. 30 to take comments from interested parties. On Dec. 2, the Valuation of Securities (E) Task Force will meet to finalize the assumptions, which will then be posted publicly on the NAIC Web site. The modelers will use these final assumptions in their initial runs, pursuant to the project timeline. The implementation phase will include actual running of the model, as well as review and validation of the results in time for release to the insurers by late December/early January. The companies affected will be notified and invoiced for the cost of the additional review with fees based on an allocation methodology, in relation to the overall cost of the project. Smaller companies or companies with few RMBS holdings will pay a nominal fee. Of the 1,621 companies affected by this project, approximately 15% would be billed the nominal fee. After payment of the fee, the companies will receive a password to access data relating to their RMBS holdings. NAIC staff will be devoted to answering industry calls related to the invoices, assumptions and financial reporting procedures for these securities as the designations are released.

Having no further business, the Executive (EX) Committee adjourned.

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Executive (EX) Committee  
Conference Call  
October 20, 2009

The Executive (EX) Committee met via conference call Oct. 20, 2009. The following Committee members participated: Roger A. Sevigny, Chair (NH); Susan E. Voss, Vice President (IA); Sandy Praeger, Most Immediate Past President (KS); Linda S. Hall (AK); Thomas R. Sullivan (CT); James J. Donelon (LA); Morris J. Chavez (NM); Scott H. Richardson (SC); Leslie A. Newman (TN); Kent Michie (UT); Paulette Thabault (VT); and Sean Dilweg (WI). Also participating was: Michael Moriarity (NY).

1. Consideration of Residential Mortgage-Backed Securities (RMBS) Proposal

Commissioner Sevigny reported the Financial Condition (E) Committee is proposing an alternative method of rating and determining NAIC designations for residential mortgage-backed securities (RMBS) for 2009. Andrew J. Beal (NAIC) explained that insurance companies are required to maintain risk-based capital (RBC) for all financial assets that support surplus and capital positions. While the NAIC has historically utilized credit quality ratings issued by Nationally Recognized Statistical Rating Organizations (NRSROs) to set RBC for RMBS, E Committee proposes the NAIC retain a vendor to model expected losses on non-agency RMBS (i.e., RMBS created by private entities and not by government-sponsored entities). The assumptions used in the model would be developed by the NAIC members, with the assistance of an external consultant. The results of the modeling information would then be used to assign NAIC designations that set the RBC charge for RMBS. Commissioner Sevigny stated the Executive (EX) Committee and Plenary would vote on the substance of the proposal at a subsequent meeting. If this proposal is adopted by both the Executive Committee (EX) and Plenary, then a recommendation for a proposed vendor to perform the modeling will be brought before the Executive (EX) Committee for consideration. The E Committee emphasized this proposal was a short-term solution for 2009. Long-term solutions will be explored during 2010.

Commissioner Dilweg made a motion, seconded by Director Hall, to approve the NAIC's release of a Request for Proposal to solicit vendor proposals to model expected losses of non-agency RMBS that will then be used to identify the RBC charges of RMBS owned by U.S.-domiciled insurance companies. The motion passed.

Commissioner Michie made a motion, seconded by Commissioner Newman, to approve an NAIC expenditure to hire an external consultant to advise and assist with this RMBS initiative. The motion passed.

Having no further business, the Executive (EX) Committee adjourned.

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## TITLE INSURANCE ISSUES (C) TASK FORCE

The mission of the Title Insurance Issues (C) Task Force is to study issues related to title insurers and title insurance producers.

### Proposed 2010 Charges:

1. Study issues related to title insurers and title insurance producers, including the impact of current real estate settlement practices on policyholders, recognizing that typically, settlement providers, not policyholders, are the title entity's customers.
2. Complete a study on the ability to undertake a uniform data-collection system to capture title insurance premium and expense data that would allow for cross-jurisdiction premium comparisons. Report the results by the 2010 Spring National Meeting and make a recommendation to develop a nationwide title statistical plan.
3. Study ways to improve consumers' ability to comparison shop for title insurance. Report the results by the 2010 Summer National Meeting.
4. Consider issues raised by consumer representatives and the April 2007 study by the U.S. Government Accountability Office (GAO).
5. Consider ways to improve the solvency regulation of title insurers. Coordinate with the Financial Condition (E) Committee to determine the attributes of recent title insurance company financial failures and to identify property/casualty solvency requirements (e.g., risk-based capital) and early warning tools (e.g., IRIS ratios) not currently applied to title insurers and consider whether they should be introduced. Report the results by the 2010 Fall National Meeting.
6. Investigate ways to mitigate the impact of insolvencies on policyholders, including whether to revive work on the 1992 draft of the Title Insurance Guaranty Fund Model Act. Consider the merits of promoting the use of blanket lenders' policies and individual owners' policies to replace policies issued by now-insolvent insurers. Report the results by the 2010 Fall National Meeting.
7. Investigate ways to maintain and improve competitive title markets, including examining and evaluating the original purposes and current effectiveness of monoline title insurance laws. Report the results by the 2010 Fall National Meeting.
8. Determine an appropriate format for communicating the various findings of the Task Force—such as writing a white paper, crafting best practice guidelines, or revising the Title Insurers Model Act (#628) and Title Insurance Agent Model Act (#230)—by the 2010 Fall National Meeting. Produce a draft document in the chosen format by the 2010 Fall National Meeting.
9. Monitor the developments of the U.S. Department of Housing and Urban Development (HUD) proposed changes to its Real Estate Settlement Procedures Act (RESPA) and provide comments to HUD or to the U.S. Congress, if necessary. Respond to RESPA or HUD proposals by the due dates established by HUD. Monitor, facilitate and report on the HUD Collaborative Enforcement Group, which involves monthly conference calls between state insurance regulators and HUD on investigations.
10. Consider whether or how to assist in combating mortgage fraud. Report the results by the 2010 Fall National Meeting.
11. Study whether the title insurance industry is undertaking additional financial risks at the request of institutional lenders and owners.

12. Study the issuance of mortgage impairment products by non-title insurers to determine whether they should be classified as title insurance.
13. Study captive reinsurance arrangements that title insurers maintain and determine if they are legitimate reinsurance transactions or simply gimmicks to avoid the application of laws that would prohibit rebating and, if necessary, make recommendations for needed reform.
14. Study affiliated business arrangements (ownership arrangements between and among settlement providers and title entities) to determine which types of arrangements are legitimate and which types of arrangements are “shams”; i.e., those structured mainly to capture referral business and provide kickbacks to settlement providers, and that do not perform essential core title services.
15. Study the appropriateness of title insurance rates in light of the current competitive environment and, in particular, determine what constitutes appropriate justification for rates, determine the effect affiliated business arrangements should have on rates, and determine the feasibility of interactive rate comparisons among title entities to enhance competition.

### **Market Information Systems (D) Task Force**

The mission of the Market Information Systems (D) Task Force is to provide business expertise regarding the desired functionality of the NAIC Market Information Systems and the prioritization of regulatory requests for the development and enhancements to the NAIC Market Information Systems.

#### **Proposed 2010 Charges**

1. Assess the efficacy of existing NAIC Market Information Systems with respect to the primary objectives of market regulation and make recommendations for ways the data systems can be enhanced, consolidated, or eliminated. Market Information Systems include:
  - Market Analysis Prioritization Tool (MAPT)
  - Market Analysis Review System (MARS)
  - Complaint Database System (CDS)
  - Examination Tracking System (ETS)
  - Regulatory Information Retrieval System (RIRS)
  - Market Initiatives Tracking System (MITS)
2. Coordinate with the Market Analysis Priorities Working Group, in assessing the analytical methods that make use of the NAIC Market Information Systems.
3. Develop data reporting standards and data editing protocols to ensure consistent collection and storage of market regulation data that are accurate, complete, and conform to all NAIC standards.
4. Serve as the business partner to receive reports from the internal NAIC Advisory Committee overseeing the development of a system for the automation and collection of the Market Conduct Annual Statement and provide direction to the Advisory Committee to ensure business objectives are being met.

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## REQUEST FOR 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:**

Capital Adequacy (E) Task Force

**2. NAIC staff support contact information:**

Dan Swanson  
(816) 783-8412  
dswanson@naic.org

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

Risk-Based Capital (RBC) for Fraternal Benefit Societies Model Act

**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**

The model act would give states the regulatory authority to take corrective, rehabilitation or liquidation actions as a result of a fraternal benefit society having less than the minimum capital amount as calculated by the risk-based capital formula. Implementing this model would improve the authority states have to take action when a fraternal benefit society experienced financial difficulties.

**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:** There is a model act already for Life, Property and Casualty and Health risk-based capital.

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 legislature 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:** Twenty-one states currently have domicile fraternal benefit societies who file annual statement data on the NAIC database. So this model act might not be a priority item for states with no fraternal domiciled companies. But, all states have a fraternal benefit society who is licensed to do business in the state.

8. **Is this model law referenced in the 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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