



International Association of Insurance Receivers

Fall 2008

Volume 17 • Number 3

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IAIR's President's Message

*As we say goodbye to the long, lazy days of summer
and welcome the beautiful warm colors of fall,
I can assure you that the IAIR Board and committees,
along with the competent and efficient guidance of*



Francine L. Semaya, Esq.

our Executive Director – The Beaumont Group – have been busy at work. This has been a tumultuous time for the economy, and likewise, the insurance industry. Maintaining the status quo means tightening the belt and being more conservative – with the hope of weathering the storm that faces our industry.

IAIR, however, continues to forge ahead to give you, our members, the best educational programs, a brand new website (a work in progress), exciting networking opportunities and untold chances to become more involved. With rising costs, it has become increasingly challenging to sustain, and more important, raise the quality and standards we are so accustomed to. The

benefits available to our members are unmatched by any other professional association, and is due in no small part to the efforts and involvement of our Board, committee chairs and committee members. IAIR, however, can do so much more to enhance the organization and the benefits to all our members, but we need your help to continue to provide extraordinary benefits for our members.

As we continue to advance, on behalf of the IAIR Board and our management team, we pledge to deliver on the benefits and values associated with membership in IAIR, while maintaining a sound economic structure. We encourage each one of you to share IAIR and the benefits of the Association with your colleagues in the industry. If everyone would bring in just one new member, we will not only double our membership, but be able to provide our members with enhanced educational programs and greater opportunities for advancement in the industry.

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IAIR's President's Message (Continued)

On behalf of the IAIR Board of Directors, I wish to extend our sincere thanks to those of you who continue to support the Association. Your participation and support is a testament of your belief in the value and benefits the Association offers its members, both today and in the future.

I look forward to welcoming each and every one of you at our upcoming meetings and seminars:

Please contact me at fsemaya@cozen.com or (212) 908-1270 with your ideas for program speakers, committee involvement, constructive suggestions and compliments!

Sincerely,
Francine Semaya
President

Issues Forum

September 23, 2008

Gaylord National Hotel, National Harbor, MD
Potomac Ballroom 1 - 9:00-12:00 p.m.

2008 NCIGF/AIR Joint Insolvency Conference

Radisson Fort McDowell Resort,
Scottsdale, AZ

November 6-7, 2008

2009 IAIR Insolvency Workshop

January 21-23, 2009

Sheraton Tampa Riverwalk Hotel, Tampa, FL
(Details to Follow Shortly)

Board Talk

By Michelle Bolter & Jamie Saylor

Karen Weldin Stewart, a recently elected IAIR Board member, took some time away from stumping on the campaign trail for the office of the Delaware Insurance Commissioner to sit down



Karen Weldin Stewart

for a discussion about the direction of IAIR and other important matters.

Although she has served in the insurance receivership field for almost 20 years, Karen began her professional career as a successful businesswoman

and entrepreneur in the retail clothing market. After a significant period in the retail industry, Karen's career took a turn in 1989 when she went to work at the Delaware Department of Insurance. After four years

with Delaware, Karen returned to her entrepreneurial ways and became President and CEO of The Weldin Group, Inc., a consulting firm that specializes in providing assistance to the insurance and reinsurance industry. Her work as a consultant took her to Texas and Utah where she managed several large insurance insolvencies and in 1997 Karen became a certified Deputy Receiver. Karen is now working as an Assistant to State Senator Harris B. McDowell, III and, as a result, has a better appreciation for the legislative aspects of the insurance industry because of the exposure.

Don't mistake Karen's recently elected status to the IAIR Board as a sign of a newcomer. Karen's affiliation with IAIR truly begins from the building block stages.



Board Talk (Continued)

In 1991, she and a group of other likeminded individuals founded IAIR, originally called the Society of Insurance Receivers (SIR), to provide structure and support for tackling the challenges faced by insurance receivers. Karen counts founding IAIR among one of her greatest professional accomplishments in addition to her work overseeing over twenty estates and in some instances winding up the receiverships after settling creditor claims with enough money to pay back stockholders.

After serving an initial term as IAIR President from 1991-1993, Karen was re-elected to the Board in 2008 for two years. Karen feels that one of the biggest challenges facing IAIR is to return the organization to its focus on regulators. Karen believes that IAIR needs to increase its credibility and visibility amongst regulators so that state departments will look to IAIR's accredited members as the most experienced individuals to manage receiverships. Karen believes that the IAIR community has a lot to offer the industry not only with its expertise in receiverships, but also with its experience in financial examinations and investigations of troubled companies. She believes this should be a focus of the organization in the coming year.

And now for the truly important matters of the day.

Q: If you could have dinner with any three people in the world, dead or alive, fictional or non-fictional, who would they be and why?

A: Elizabeth I, Queen Victoria and Golda Meir. Elizabeth I was the final Queen of England during the Tudor dynasty in the latter half of the 16th century; Queen Victoria reigned over England for 63 years during the Victorian era in the 19th century; and Golda Meir was the fourth, and first and only woman, prime minister of Israel in the early 1970s. Karen thinks that each one of these powerful, strong-willed leaders would have innumerable stories to share about the challenges they faced as leaders as well as women.

Q: What is your favorite NAIC/IAIR conference location?

A: Karen mentioned the 1992 workshop in San Diego, California as a memorable event. Most recently IAIR held a workshop in this beautiful location in 2006.

Q: What is the last book you read that you would recommend?

A: Carolyn Maloney's non-fiction book, *Rumors of Our Progress Have Been Greatly Exaggerated*, highlights how women's issues permeate society, and how political change has provided only a fraction of a solution.

Q: What is your favorite leisure activity?

A: Karen is a downhill skier and like so many easterners much prefers to ski in pure powder on the slopes in Park City, Utah.

Q: What is your favorite sports team?

A: With no pro sports franchises residing in Delaware, Karen can throw her allegiance across state lines without fear of political backlash (she hopes). Karen is a Philadelphia 76ers basketball fan and big Phillies baseball fan as well.

Q: Where is the last place you vacationed?

A: While Karen's schedule doesn't allow much time for vacationing, she cites a trip to Alaska as a favorite vacation where she spent time visiting Anchorage and cruising off the coast of Alaska.

Q: Give us one piece of personal information that your business acquaintances might not know about you?

A: Karen lives in a 1911 arts and crafts bungalow in Wilmington, Delaware along with her twelve year-old show cat named Chateau Ragdoll Contessa, "Tess" for short, who is only one tooth away from being a prize winning cat.

Thanks to Karen for her time and cooperation on this article.



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The Fruits of Cooperation:

Joint Receivership, Guaranty Funds Effort Set To Streamline Insolvency-Related Financial Reporting

By Jim Hamilton

Vice President of Claims Systems, Home Insurance Co. in Liquidation and member of the NAIC UDS Technical Support Group and the NAIC UDS Financial Technical Support Group

By Mark Might

Vice President of Internal Operations, Ohio and West Virginia Insurance Guaranty Funds, and Chairman of the NAIC UDS Technical Support Group and the NAIC UDS Financial Technical Support Group

Sometimes it seems that a world of difference divides the receivership and guaranty fund communities. Look a little closer, though, and you'll see these two groups often share a common cause.

Understandably, there can be great disparity of opinion between the “two houses” of the insolvency structure. But it is also true the groups share a spirit of cooperation that often brings measurable benefits to the system.

The fruits of this cooperation are evident in the National Association of Insurance Commissioners’ (NAIC) adoption last year of a new version of the Uniform Data Standards (UDS) D-record. The adoption capped years of diligent and dedicated work by the members of the NAIC UDS Technical Support Group (UDS TSG) and the NAIC UDS Financial Technical Support Group (UDS FTSG). The members of these groups included claims, IT and financial professionals from the receiver and guaranty fund communities.

Upon implementation on January 1, 2009, the revised D-record will provide a uniform method of presenting quarterly guaranty funds’ financial data to receivers. It will contain information on losses, loss adjustment expenses, other administrative expenses and revenue amounts received from an inception to date, year-to-date and quarter-to-date perspective. Also included is a feature to address large deductible data as well as other enhancements.

The D-record will bring to insolvency-related financial reporting greater uniformity and standardization, better efficiency and related cost-savings, and will help strengthen and streamline the insolvency system that has protected tens-of-thousands of policyholders and claimants over the years.

Prior to any uniform data standards, processing claims for both guaranty funds and receivers was cumbersome and labor intensive. It required manual input of information from original claim files, had no standardization of forms; also there was no specified reporting timeframe. For receivers,

the lack of a standard format meant that processing claims information from the more than 50 property and casualty guaranty funds was often a heavy-lift exercise in

shifting mountains of paper and key stroking claims data into a database. Every receiver was left to negotiate the best they could with guaranty funds about what to report and reporting frequency. For guaranty funds, the lack of a standard format brought other challenges: they had to report payment and reserve data in as many different formats (mostly hard copy) as there were estates.

Members of the UDS TSG originally tried to

The D-record will bring to insolvency-related financial reporting greater uniformity and standardization



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The Fruits of Cooperation (Continued)

promote UDS as the format of choice in the early 1990s. The initial intent was to use the protocol to efficiently transfer claims data only. The volume of data generated by the spate of large, multi-state insolvencies a few years later showed receivers and guaranty funds the value of finding ways to efficiently gather data receivers needed to bill and collect from reinsurers. The claims protocol, the C-record, was successful, and prompted a growing consensus that it was time also to standardize financial reports; this in turn led the UDS TSG and UDS FTSG to take up development of the D-record.

The NAIC's adoption of the D-record is an important success; it underscores the fact that guaranty funds and receivers can and often do work together to develop solutions that enable the system to better and more efficiently serve policyholders and other receivership creditors. For receivers, the D-record facilitates compilation of financial data from the various guaranty funds. The receiver uses the D-record as a control mechanism and reconciliation point with the claims detail in the C-record, plus it is the only method for reporting guaranty fund administration expenses and other revenues not included in the C-record. It also speeds up reconciliation with the claims detail in the C-record. In addition, the D-record facilitates the review and analysis of individual guaranty funds Proofs of Claims and claim servicing expenses. The upgrades also reduce expenses of guaranty funds and receivers by automating what had been a costly and tedious manual process of transmitting financial information between funds and receivers.

The revised D-record brings added efficiency and uniformity to insolvency financial reporting by replacing the various forms of hard copy reporting receivers used in the past, including financial information questionnaires (FIQs), with a uniform financial report that can be filed via hard copy or

electronically. This creates a standardized system of reporting with which receiver and funds are familiar. It is an important step in the ultimate goal of users migrating to full electronic filing capability.

For guaranty funds, the D-record standardizes reports, eliminating the past situation where they might be asked to complete different reports to provide the same information to various estates. It also leverages the speed and cost advantages of automation; it speeds up the preparation and issuance of financial reports, and it reduces manpower needed to compile reports while increasing accuracy.

As the D-record came to fruition, the National Conference of Insurance Guaranty Funds (NCIGF) created Secure UDS (SUDS), a secure electronic clearinghouse for UDS data exchange between receivers and guaranty funds. Prior to SUDS, many organizations transferred their UDS files in unencrypted and unsecure methods such as email, postal mail, and FTP (File Transfer Protocol). While these methods have been reliable in the past, the recent changes in security and compliance laws led the NCIGF to reevaluate how its members send sensitive, non-public personal information such as names, addresses, and social security numbers.¹

SUDS delivers a range of benefits. It provides a secure means by which guaranty funds and receivers transfer claims data in a manner that protects sensitive personal information from interception, theft, and unauthorized access. It also offers a single standardized point of data exchange between receivers and guaranty funds. The NCIGF makes SUDS available to receivers and guaranty funds at no cost.

Coinciding with the rollout of the D-record, the UDS TSG and UDS FTSG is undertaking a new UDS training program for the guaranty fund and receivership communities. The goal is to increase the general understanding of the D-record and





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The Fruits of Cooperation (Continued)

UDS overall through a new generation of on-line, modular and interactive UDS and SUDS training materials.

In addition to the obvious educational benefits these materials will bring to UDS users, the materials will help promote uniform UDS reporting practices and help users gain maximum benefit from the tools. Development of the training materials, which is being overseen by the UDS TSG and UDS FTSG, draws on the expertise of UDS experts from the guaranty fund and receivership communities. The D-record portion of the training is now being completed; the remainder of the project will be finished in 2009.

At the end of the day, a key part of the D-record success lay in the fact that the UDS TSG and UDS FTSG was made up of receiver and guaranty fund representatives. These professionals know first-hand the mutual advantages that arise from taking a joint, solutions-based approach to addressing issues.

Indeed, the effort is something of a casebook example of the benefits that come when the receivership and guaranty fund communities work together. The UDS TSG and UDS FTSG knew early on that if the D-record was to succeed, the effort had to be spearheaded by receiver and guaranty fund representatives. It is the front-line claims, IT and financial professionals from receiverships and guaranty funds on the UDS TSG and UDS FTSG who are best-placed to recognize the benefits of uniformity and standardization the D-record and UDS overall.

If the D-record's adoption has accomplished nothing else, it has shown the value of good communication between the receivership and guaranty fund communities. Those of us who have served on the UDS TSG and UDS FTSG committees have seen first-hand the mutual benefits that arise when a spirit of unity and cooperation guides an effort and issues are resolved openly through good communication.

In the final analysis, electronic systems such as UDS allow guaranty funds and receivers to save time, effort and resources while allowing us to bring new levels of uniformity and accuracy in reporting. For some there are initial "birthing pains" associated with adapting to these changes. However, the overall capabilities and mutual benefit brought to receivers and guaranty funds alike make it well worth the investment of time and resources.

Admittedly there are – and always will be – differences of opinion between guaranty funds and receivers. But the successful adoption of the D-record clearly shows what can happen when differences are set aside in favor of exploring what will work best for all.

¹ Portions of the foregoing text are drawn from "UDS Overview" prepared by Dale Stephenson. The authors thank Dale for contributing this material.

The authors would also like to thank the members to the UDS Technical Support Group and the UDS Financial Technical Support Group whose talents and dedication have done so much to improve insolvency reporting.

Members of the UDS TSG and UDS FTSG groups are available to answer questions about UDS, the D-record and related issues. The group invites readers to e-mail questions to the UDS Help Desk at udshelp@udstsg.com.





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By Charlie Richardson

As we move into the Presidential election season, people in Washington are talking about the prospect that next year's new Congress will continue to consider ways to "modernize" the



insurance regulatory structure, including having a possible federal role of some kind.

The chances increased on July 9 when the key insurance subcommittee in the U.S. House passed three pieces of regulatory

modernization legislation. But let's begin with the Treasury Department.

U.S. Treasury Blueprint (or Footprint?)

On March 31, 2008, Treasury Secretary Henry Paulson unveiled the Treasury's Blueprint for Regulatory Reform outlining a series of short, intermediate and long-term recommendations to improve the regulation of the banking, securities and insurance sectors. The Treasury favors an optional federal charter for insurers and the establishment of a federal Office of Insurance Oversight within the Treasury to be a federal presence in insurance for international and regulatory issues. To see a copy of the blueprint, go to <http://www.treas.gov/press/releases/reports/Blueprint.pdf>.

Congressional Response – A Firm Maybe?

Just two weeks after the Treasury endorsed an optional federal charter and a federal insurance regulator, the House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, Chairman Rep. Paul Kanjorski (D-PA) introduced a bill (H.R. 5840) to do part of that as a first step. Rep. Kanjorski, who chairs the House Capital Markets Subcommittee, would establish an "Office of Insurance Information" to set federal insurance policy and preempt state laws inconsistent with such policy. Kanjorski has held a series of hearings on insurance regulation and brought his new bill up for a hearing on June 10. (See below for a summary of the testimony, including the conditional support of the NAIC). He followed that with a markup of that and two other pieces of reform legislation on July 9.

House Financial Services Subcommittee Approves Three Insurance Regulatory Measures

On July 9, the House Financial Services Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, approved the following three insurance regulatory measures:

- H.R. 5840, the Insurance Information Act of 2008 - Establishing the Office of Insurance Information within the Department of the Treasury.
- H.R. 5792, the Increasing Insurance Coverage Options for Consumers Act of 2008 - Amending the Liability Risk

View from Washington (Continued)

Retention Act of 1986 to cover risk retention groups offering commercial property insurance and applying the exemption of purchasing groups from state law to commercial property insurance.

- H.R. 5611, the National Association of Registered Agents and Brokers Reform Act of 2008 - Re-establishing the National Association of Registered Agents and Brokers (NARAB) for the purpose of providing a mechanism through which licensing, continuing education and other insurance producer qualification requirements and conditions can be adopted and applied on a multi-state basis while preserving states' rights to license, supervise and discipline insurance producers.

Each of these bills was reported favorably by a voice vote and can be taken up by the full Committee or sent directly to the House floor for full consideration.

The Committee's approval of these three insurance regulatory measures follows the House passage of H.R. 1065, the Nonadmitted and Reinsurance Reform Act, in June 2007. H.R. 1065 is awaiting action in the Senate.

Copies of the Substitute Amendments adopted on each of the bills are available at the following Web page of the House Financial Services Committee: http://www.house.gov/apps/list/speech/financialsvcs_dem/mu070908.shtml

Genetic Information – Health Insurance Not in the DNA

Ending a 13-year debate, Congress has given final passage to the Genetic Information Non-Discrimination Act. GINA will prohibit utilization of genetic information in health insurance underwriting and in employment. Several states have similar laws, but coverage and standards are inconsistent from state to state. Federal agencies have 12 months to write interpretive regulations. President Bush signed the bill on May 21, 2008. Baker & Daniels has for several years been involved in the negotiations and drafting leading up to the final bill.

New Disclosures for Insurers Selling to Retirement Plans

The Department of Labor has issued two new sets of rules - one proposed and one final - that are causing strain on financial service companies selling products to retirement plans. The first changes the retirement plans' annual report (Form 5500). Insurance companies will now need to track and report a wide range of compensation and revenue data that has not been required

The Department of Labor has issued two new sets of rules

in the past. The second, in proposed form, effectively requires that most of the new data required for Form 5500 be actually reported to plans before the

insurance company can sign a service contract with the employer. These new rules will be challenging for financial service companies, particularly given the new data requirements already being imposed by the Pension Protection Act, the new 403(b) regulations and certain SEC rules.

The House Hearing on H.R. 5840: The Insurance Information Act of 2008

At the June 10 hearing, seven people testified before 17 members of the House Subcommittee regarding the Insurance Information Act of 2008, H.R. 5480. The legislation would establish the Office of Insurance Information (OII) within the U.S. Department of the Treasury to provide advice on insurance regulation to the Administration and to Congress. Because the hearing gave some telling insights into the positions and strategies of key constituencies on a whole range of reform proposals, we describe in fair detail the proceedings on June 10.

First Panel

The first panel of witnesses included:

- **Jeremiah O. Norton**, Deputy Assistant Secretary, U.S. Department of the Treasury



View from Washington (Continued)

- **Michael T. McRaith**, Illinois Insurance Director, on behalf of the National Association of Insurance Commissioners
- **Brian P. Kennedy**, Rhode Island House of Representatives; President, National Conference of Insurance Legislators

In opening the hearing, Chairman Kanjorski and Ranking Member Pryce said the scope of federal preemption provision is the most contentious issue and urged the Subcommittee to engage the panelists on this issue with the goal of building consensus in order to move the bill forward.

Mr. Norton for Treasury

Norton explained the goals of Treasury's Blueprint and how H.R. 5840 is consistent with those goals. Insurance, like securities and banking, needs a "seat at the international table." Calling Treasury's concerns "very bridgeable," Norton encouraged the Subcommittee to clarify the term "agreement" and the OII's authority to enter into agreements.

In response to Rep. Pryce's question asking for "any measurement of loss on U.S. interests due to our current regulatory structure which lacks a federal component of insurance trade," Norton said, "no, this is one of the reasons we believe we need the OII." Later, Rep. Sherman and Rep. Norton went around about how H.R. 5480 impacts international trade agreements, U.S. treaties, and/or international regulatory equivalency agreements. Rep. Hinojosa asked Norton to follow-up in writing with any "negotiations the U.S. is involved in with foreign countries which involve insurance, specifically Panama, Columbia, or Korea."

Closing his testimony, Norton responded to comments from Rep. Royce and Rep. McCarthy who asked about the OII's role in cross-border talks, reiterating Treasury's position that OII would help cross-border dialogues just as a federal presence has helped in the securities and banking sectors.

Director McRaith for the NAIC

Testifying for the NAIC, Director McRaith

said, "we support H.R. 5840, subject to some important clarifications. This conditional support hinges on the proposal not changing in ways detrimental to insurance consumers. We look forward to continuing our constructive and substantive discussions to produce a measure that will garner our full support." The NAIC supports the bill's objectives of (1) allowing a federal agency to work with state insurance regulators to receive and analyze industry data; and (2) establishing a central point of contact in the federal government for foreign governments regarding international insurance matters.

McRaith cautioned that the NAIC would oppose "any legislation with a broadly preemptive approach," including the OII if it had the authority to preempt consumer protections and solvency standards adopted by the states. Additionally, he asked the Subcommittee to define "agreement" and "business of insurance."

A number of times McRaith touted the U.S. insurance system, saying: "the U.S. is the gold standard for regulation." "We have a more mature insurance regulatory system than the EU" and "we have a more robust insurance market." Rep. Pryce pushed back, commenting that we don't need a "mature" system; we need a system that "works in the global market, a system that fosters trade with the EU."

Clearly focused on moving the bill, Rep. Pryce asked point-blank, "What will the NAIC support?" McRaith responded:

1. The federal government should have insurance information and resources which it can "call upon during national crises."
2. Since Article 1 §10 of the U.S. Constitution limits states' ability to trade with foreign countries, the NAIC recognizes the need to have some federal involvement for this purpose.
3. H.R. 5611 (NARAB II) will help with uniformity and reciprocity in licensing.
4. NAIC is nearing agreement on "comprehensive reinsurance reform" measures.



View from Washington (Continued)

5. Solvency II has not been adopted in final form in the EU and, once adopted, it won't be implemented until years later.

At one point, Rep. Manzullo rhetorically asked “how can you [McRaith] support this bill, yet think it won't lead to OFC. This is a soft punch to be followed by much stronger action.”

Closing his testimony, McRaith said that “you [the federal government] should have access to insurance data when you need it, but remember – what is appropriate for state X is different than what is appropriate for state Y, which is why insurance regulation should remain local.”

“What will the NAIC support?”

Mr. Kennedy for NCOIL

NCOIL is concerned about the “lack of state legislator presence in the bill.” Kennedy argued that the NAIC should not have a “primary role in the OII,” a role which dramatically enhances the power of the NAIC – a private trade association, not a public body.” Regarding OII’s power to “advise” in “international insurance matters,” Kennedy expressed concern and asked “what does this mean?” NCOIL would like to limit the OII to being a clearinghouse of insurance data.

Kennedy likened H.R. 5840 to Field of Dreams: “creating OII but not OFC is like building a baseball field but asking people not to play. If you build it, they [OFC] will come.” NCOIL does not support OFC. Likewise, NCOIL does not support OII “officially” out of concern for the creation of advisory rules without the presence of legislators on the OII Advisory Committee.

Responding to a question from Rep. Manzullo and Rep. Capilano, Kennedy said that the danger of the bill is that legislators are not involved; NCOIL wants a spot on the OII Advisory Committee.

Second Panel

Four people from the industry testified on the second panel:

- **Neal S. Wolin**, President and Chief Operating Officer, Property and Casualty Operations, The Hartford Financial Services Group on behalf of the American Insurance Association
- **Stephen E. Rahn**, Vice President and Associate General Counsel, Lincoln Financial Group on behalf of the American Council of Life Insurers
- **Tracey Laws**, Senior Vice President and General Counsel, Reinsurance Association of America
- **David A. Sampson**, President and Chief Executive Officer, Property Casualty Insurers Association of America

Mr. Wolin for the AIA

Repeating many of the reasons discussed on the first panel for supporting OII, Wolin proclaimed AIA’s support for H.R. 5840 and for OFC legislation. In his testimony, Wolin recommended the following changes:

- Make the scope of preemption “symmetrical, so that states do not subject U.S. insurers to less favorable treatment than non-U.S. insurers doing business in those states.”
- Craft the bill’s preemption language to grant the Treasury Secretary the authority to stay a preemption determination for “prudential reasons or where that determination would result in a regulatory gap in either U.S. financial solvency or market conduct regulation, or establish a general federal regulatory authority over insurance.”
- Restore the “publicly available” limitation on the OII’s information collection function, or modify the discussion draft in a way that will allow any non-public information to receive the confidentiality currently afforded by state law...”

Mr. Rahn for the ACLI

Rahn said ACLI supports the following five principles:

- Limiting H.R. 5480 to international issues;



View from Washington (Continued)



- The bill's stated intent not to create a supervisory authority;
- OII not creating a real, or potential, solvency gap;
- OII to consult with Advisory Committee; and,
- Preemption not resulting in material, unfair discrimination of U.S. insurers.

Without getting into many specifics, Rahn raised three issues with the bill: (1) data collection and access to non-public information, (2) the level of prominence given to the NAIC, and (3) the Federal Trade Commission playing a role in OII. Regarding preemption, Rahn said, "we believe pre-emption is appropriate in the context of this bill, but we also believe the pre-emption language must be carefully crafted in order to avoid consequences that neither the industry nor Congress intend."

Ms. Laws for the RAA

The RAA supports the spirit and purpose of the bill. Laws believes OII will benefit the reinsurance industry. Laws raised two considerations: (1) The preemption provision should be expanded to allow OII to preempt any international agreement in conflict with OII policy, not just U.S. Trade Agreements; and (2) The process for preempting state insurance measures – the stay provision and administrative procedures – are extremely broad and unnecessary.

Mr. Sampson for PCI

Sampson said "PCI does not have a final position on the bill" but has three concerns:

- The scope of OII. Sampson said this "could be a first step to OFC."
- The NAIC's role as data provider. Sampson recognized that having data is important but it also can be "expensive." He suggested requiring that OII have a "clear and convincing reason" to collect data and that the benefits of the data collection outweigh the burden.
- The power of preemption. Sampson warned that the "preemption power not circumscribe the McCarran-Ferguson system."

Noting the "narrow window of opportunity for action on this bill," Rep. Kanjorski asked the panel "how can we fix the preemption provision so that it will be acceptable?" Rahn said "ACLI will help craft it." Laws reiterated that the "preemption provision needs to stay in the bill" and said RAA will help get it done. Sampson offered the assistance of "PCI attorneys to work with staff in drafting an acceptable provision."

Rep. Royce asked the panel why so many object to the FTC being on the Advisory Committee to OII. Both Wolin and Rahn said that the FTC does not have expertise in insurance and that there are better people to include if Congress wants a "consumer perspective" on the Committee.

Harkening back to his opening comments which solely addressed the importance of including NARAB II in any insurance reform action, Rep. Scott asked Wolin and Sampson directly whether they would benefit from NARAB II. Both Wolin and Sampson said their memberships would benefit from the bill and that they support it.

Copies of the witnesses written statements are available at: http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr061008.shtml



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To submit an article, please contact Susan Barros at scb@iair.org. Deadlines for submissions are as follows: February 1, May 1, August 1 and October 31.

