NAIC Fall 2023 National Meeting Update

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The National Association of Insurance Commissioners (NAIC) recently held its Fall 2023 National Meeting (Summer Meeting). The following summarizes certain activities of the NAIC that took place during the Fall Meeting and on various WebEx Meetings leading up to the Fall Meeting.

Statutory Accounting Principles (E) Working Group

The following highlights items discussed as part of the Statutory Accounting Principles (E) Working Group's (SAPWG) Hearing and Maintenance agenda items.

Intercompany Pooling Arrangements - SAPWG re-exposed nullification Interpretation (INT) 03-02 "Modification to an Existing Intercompany Pooling Arrangement" (INT 03-02) as such guidance conflicts with SSAP No. 25 "Affiliates and Other Related Parties: (SSAP No. 25) regarding transfers of assets and liabilities for purposes of settling economic and non-economic transactions with related parties. INT 03-02 allows the use of statutory book value which is contradictory to SSAP No. 25's requirement to utilize fair value and results in unrecognized gains or losses when using bonds to make payments to affiliates for modifications to existing intercompany reinsurance pooling arrangements. Interested Parties disagreed with INT 3-02's nullification citing varying issues on the matter. Any action has been deferred with further discussions required.

Bond Project - SAPWG exposed revisions to SSAP No. 21R "Other Admitted Assets" (SSAP No. 21R) and the Principles Based Bond Definition Issue Paper to provide guidance on the measurement method for residual tranches. Exposed revisions propose the "Effective Yield Method with a Cap" (EYMCAP) as recommended by Interested Parties with a practical expedient to allow reporting entities to elect to use the cost recovery method in lieu of the EYMCAP method. The revisions detail limitations if electing the practical expedient which require its use for all residual holdings and a prospective approach for new acquisitions only if a company wanted to move away from the cost recovery method once it is elected. The cost recovery method does not allow a reporting entity to recognize investment income on a residual tranche until the cost basis has been recovered. The EYMCAP method allows recognition of investment income on a residual tranche based upon the calculated effective yield with excess amounts reflected as a return of capital reducing the book adjusted carrying value of the residual tranche investment. Discussions remain ongoing.

The Blanks (E) Working Group (Blanks) adopted revisions to the Annual Statement and related instructions including updates to the general instructions and new schedule D-1-1 and D-1-2. These new schedules capture information specific to issuer credit obligations and asset-backed securities with revised reporting lines and instructions for investment classification. Revisions to reporting instructions also continue to be discussed. These revisions have a current effective date of January 1, 2025.

Blanks exposed revisions to Schedule BA in accordance with the bond project for debt securities that do not qualify as bonds on Schedule D under SSAP No. 26 “Bonds” or SSAP No. 43R “Asset-Backed Securities” and are captured in scope of SSAP No. 21R. Proposed effective date is January 1, 2025.

Schedule BA Instructions - SAPWG exposed revisions to the Schedule BA Instructions to clarify investments that should be categorized as non-registered private funds, joint ventures, partnerships, or limited liability companies or residual interests and reported based upon the underlying characteristics of the assets. Interested Parties discussed whether non-registered private funds should be included with other SSAP No. 48 “Joint Ventures, Partnerships and Limited Liability Companies” (SSAP No. 48) investments. SAPWG stated that non-registered private funds are scoped into SSAP No. 48 as there is no separate SSAP for these types of funds. Discussions remain ongoing.

Collateral for Loans - SAPWG adopted revisions to SSAP No. 21R to clarify that invested assets pledged as collateral for admitted collateral loans must qualify as admitted invested assets. Revisions specified that adequate fair value documentation of the underlying collateral must be maintained to support the collateral’s adequacy. The guidance in SSAP No. 100R “Fair Value” should be used to determine the appropriateness of fair value measurements. Additionally, if a collateral is an investment scoped into SSAP No. 48 or SSAP No. 97 “Subsidiary, Controlled and Affiliated Entities” audited financial statements are required for these investments to determine the admittance of the collateral loan but fair value of these investments is still used to determine collateral adequacy. There is no optionality to measure using fair value for purposes of determining asset admittance. Audited financial statements are required for the reporting years in which the related collateral is pledged. Revisions are effective for year-end 2023 reporting.

Additionally, SAPWG exposed an agenda item to expand the reporting of collateral loans on Schedule BA of the Annual Statement to enable regulators to identify the type of collateral in support of the admittance of collateral loans in the scope of SSAP No. 21R. This agenda item proposes expanding Schedule BA so that collateral loans are separated by type of investment that secures the loan. Additionally, a new aggregated data captured note is proposed to identify the admitted and non-admitted collateral loans by type of collateral that secures the loan. SAPWG sponsored a proposal to Blanks for this agenda item with a target adoption date for year-end 2024. Discussions remain ongoing.

Reinsurer Liquidation - SAPWG adopted INT 23-04 “Life Reinsurance Liquidation Questions” (INT23-04) effective for December 31,2023 at the request of industry in response to the recent liquidation of a U.S. based life reinsurer. INT23-04 addresses the accounting and reporting for reinsurance receivables by a cedent due from the reinsurer’s estate. SAPWG revisions clarify that SSAP No. 61R paragraph 58 applies to write-off recaptured balances. Revisions also clarify that paid claims recoverable from the estate, other recoverables from the estate and liabilities due to the estate are reported in the Annual Statement on line 16.1 “Amounts Recoverable from Reinsurers”, line 16.3 “Other Amounts Receivable Under Reinsurance Contracts” and line 9.3 “Other Amounts Receivable Under Reinsurance Contracts”, respectively. Additionally, discussion included the admissibility of any receivables due from the estate with conversation by SAPWG originally requiring the potential non-admittance of all assets due from the estate. However, after several points raised by Interested Parties the option to allow admittance of these recoverables was addressed if the recoverable were secured by an Appendix A-785 “Credit for Reinsurance” collateral trust or if the recoverable assets related to paid claims incurred prior to contract cancellation subject to an impairment review. Discussions remain ongoing.

Residuals in Preferred Stock and Common Stock - SAPWG adopted revisions to SSAP No. 30R "Unaffiliated Common Stock" and SSAP No. 32R "Preferred Stock" to clarify that in-substance residual investments are reported on Schedule BA of the Annual Statement. Revisions are in response to recently re-designed residual investment structures that have been designated in the market as preferred stock issuances. Revisions emphasize evaluating the substance of an investment structure in determining a residual versus non-residual investment interest. Revisions are effective for year-end 2023 reporting.

U.S. GAAP Accounting Standards Update - SAPWG exposed for rejection the following:

1) FASB ASU 2023-03 Presentation of Financial Statements (Topic 205), Income Statement - Reporting Comprehensive Income (Topic 220), Distinguishing Liabilities from Equity (Topic 480), Equity (Topic 505), and Compensation - Stock Compensation (Topic 718) "Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 120, SEC Staff Announcement at the March 24, 2022 EITF Meeting, and Staff Accounting Bulletin 6.B, Accounting Series Release 280 – General Revision of Regulation SX: Income or Loss Applicable to Common Stock."
2) FASB ASU 2023-04 Liabilities (Topic 405) "Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121."
3) FASB ASU 2023-06 Disclosure Improvements "Codification Amendments in response to the SEC's Disclosure Update and Simplification Initiative."

Credit Losses - SAPWG adopted the rejection of FASB (ASU) 2016-13 (Topic 326) "Measurement of Credit Losses on Financial Instruments" (FASB ASU 2016-13 or CECL) and any related amendments effective for December 31, 2023. FASB ASU 2016-13 was adopted by the Financial Accounting Standards Board in response to the credit crisis that occurred during the Great Recession in which at that time credit losses on financial instruments were recorded using an incurred loss model. FASB ASU 2016-13 attempts to provide financial statement users with more timely credit loss information by eliminating the incurred loss model and adopting a future loss model in assessing credit impairment on financial instruments. SAPWG addressed the concept of CECL during the Fall Meeting highlighting that NAIC statutory accounting already contains guidance within its framework that addresses future credit loss concerns on financial instruments. SAPWG cited various statutory reporting requirements such as Risk Based Capital (RBC) asset factors which considers credit risk in its calculation, Asset Valuation Reserves for life companies, and the accounting guidance for bonds, which considers specific NAIC designations for both the valuation and the determination of the accounting basis of a security (i.e., amortized cost or the lower of amortized cost or fair value). Due to these factors, SAPWG has concluded that the rejection of FASB ASU 2016-13 is appropriate for statutory accounting.

New Market Tax Credits - SAPWG exposed revisions expanding SSAP No. 93 "Low Income Housing Tax Credit Property Investments" (SSAP No. 93) and SSAP No. 94R "Transferrable and Non-Transferrable State Tax Credits" (SSAP No. 94R). Proposed revisions expand SSAP No. 93 to include all qualifying tax equity investments where the return is primarily earned through tax credits regardless of structure. Proposed revisions expand SSAP No. 94R to include all state and federal tax credits which have been allocated to or purchased by the reporting entity. SAPWG and Interested Parties both agreed that the proportional amortization method is the most appropriate amortization method to apply to these types of investments where the initial cost of the investment is amortized in proportion to the tax credits and other tax benefits allocated to the investor. SAPWG and Interested Parties also discussed admissibility requirements for tax equity investments and tax credits purchased by a reporting entity. Interested Parties' views included that tax credit investments not restricted from sale should be admissible subject to impairment testing in contrast to those that are restricted from sale which are assessed for admissibility based upon the reporting entities' ability to utilize the related tax credits. SAPWG exposed these comments for further discussion. SAPWG exposed an effective date of January 1, 2025 for any adopted revisions.

Cash and Short-Term Investments - SAPWG adopted revisions to SSAP 2R “Cash, Cash Equivalents, Drafts and Short-Term Investments” (SSAP No. 2R). Revisions narrow the classification scope as to what qualifies as an SSAP No. 2R investment. Revisions exclude from the scope of SSAP No. 2R any investments captured within the scope of SSAP No. 43R “Loan-Backed and Structured Securities”, all investments reported on schedule BA of the Annual Statement, mortgage loans captured within the scope of SSAP No. 37 “Mortgage Loans” (SSAP No. 37), derivative instruments within the scope of SSAP No. 86 “Derivatives” or SSAP No. 108 “Derivatives Hedging Variable Annuity Guarantees” and securities with terms that are reset at predefined dates or have other features an investor may believe results in a different term than the related contractual maturity. Revisions are effective January 1, 2025.

Asset Valuation Reserve and Interest Maintenance Reserve - SAPWG voted to establish a long-term project to address the asset valuation reserve (AVR) and IMR bring these concepts into SSAP No. 7 “Asset Valuation Reserve and Interest Maintenance Reserve” (SSAP No.7). Historically, this statement has included a brief overview of the AVR and IMR with the calculation and reporting guidance determined as directed by individual SSAPs or in accordance with the Annual Statement Instructions. SAPWG desires to bring all concepts on AVR and IMR into SSAP No. 7 and eliminate any guidance disconnects with the Annual Statement Instructions. Discussions remain ongoing.

Additionally, SAPWG has developed an agenda item to update guidance for IMR and AVR in the Annual Statement Instructions that currently establish specific allocation guidance. The principal concept of the IMR and AVR is that interest related losses go to IMR, and non-interest-related losses go to AVR. SAPWG stated that the current Annual Statement Instructions appear to direct an entity to allocate non-interest-related losses to IMR rather than correctly to the AVR. During the Fall Meeting, SAPWG proposed revisions to the Annual Statement Instructions to clarify that mortgage loans sold with a valuation allowance established under SSAP No. 37 or debt securities sold with a known acute credit event that negatively effects pricing and not yet reflected in its CRP rating are considered AVR related events. These revisions were referred to Blanks with a proposed adoption date effective for January 1, 2024. Discussions on specific allocation guidance between AVR and IMR related events remain ongoing with an additional agenda item exposed during the Fall Meeting for further discussion clarifying that realized gains and losses on perpetual preferred stock are not added to the IMR, regardless of NAIC designation, and follow the same concepts that exist for common stock in reporting realized gains/losses to the AVR.

Actuarial *Guideline 51 and Appendix A-010 Interaction* - SAPWG adopted revisions to SSAP No. 54R “Individual and Group Accident and Health Contracts” clarifying requirements for gross premium valuation and cash flow testing, if indicated. Revisions are effective immediately.

Other Matters - SAPWG discussed the following other matters during the Fall Meeting:

1) Exposed revisions to SSAP No. 97 paragraph 24 to update language on audits and admissibility to better align with guidance in paragraphs 26 and 27 regarding the “look through” methodology which allows admitting audited investments in entities owned by unaudited downstream noninsurance holding companies.
2) Exposed an agenda item for potential updates to SSAP No. 58 “Mortgage Guaranty Insurance” and Appendix A-630 “Mortgage Guaranty Insurance” as a result of the adoption of the Mortgage Guaranty Insurance Model Act in August 2023.
3) Disposed of an agenda item proposing to adopt a new financial statement footnote to provide the development of net amounts at risk in the categories needed for the Life C-2 mortality risk charges.

Life Risk-Based Capital (E) Working Group

The Life Risk-Based Capital (E) Working Group (Life RBC) reviewed a previous exposure regarding an instruction supplement for applying the C-2 Mortality Factors in the risk-based capital (RBC) calculation and any related revisions to the instruction supplement. Updates for 2023 were discussed which include the potential to develop a new financial statement footnote that would include information that would make it easier to complete the C-2 schedule in RBC and the potential to assign different factors for group permanent life. The proposed financial statement footnote was deferred for year-end 2023 as aligning the data to a footnote would create additional work that would be subject to audit. An alternative to 2024 reporting was discussed which included the use of a new general interrogatory in lieu of a financial statement footnote. The general interrogatory alternative has been exposed by Blanks. Discussions remain ongoing.

Life RBC discussed a previous proposal given by the American Council of Life Insurers (ACLI) regarding the charge for repurchase agreements. The proposal is consistent with other initiatives to update charges in the RBC formula in an effort to modernize the framework. The proposal includes a recommendation to lower the C-0 charge to 0.2% on conforming repurchase agreements consistent with the current charge on conforming securities lending programs with additional General Interrogatory enhancements and disclosures to validate reporting entities attestations regarding compliance with the conforming program. Referrals regarding this matter have been sent to both SAPWG and Blanks for any necessary accounting and reporting changes. Discussions remain ongoing.

Property and Casualty Risk-Based Capital (E) Working Group

The Property and Casualty Risk-Based Capital (E) Working Group discussed the following related to the property and casualty risk-based capital formula:

1) Exposure to remove pet insurance from inland marine line of business and add a new line of business for pet insurance in various components of the risk-based capital formula to be consistent with changes to the Annual Statement.
2) Exposure to add severe convective storm as one of the catastrophe perils for informational purposes only in the Rcat component.
3) Consider addition of wildfire peril to the risk-based capital formula upon review of wildfire peril impact analysis.
4) Exposure to add to the catastrophic risk interrogatories disclosures regarding information from insurers on the structure of its catastrophic reinsurance program. Reinsurance information is requested on a group and not individual company level.

The Academy provided an update and presentation on the investment income adjustments made to the property and casualty risk-based capital underwriting factors. The investment component of these factors has not been reviewed since 2010. Discussions remain ongoing.

Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group

The Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group (Investment RBC) continued to review updates to a proposal from the Academy regarding the C-1 factor asset modeling for structured securities. The proposal includes a flowchart to determine whether an asset class needs to be modeled and whether securities within an asset class needs to be modeled individually to determine new C-1 factors. The proposal emphasizes that if an existing factor can be used then it should be used with modeling for new C-1 determination being a last resort. The proposal also supported a principles-based approach to the derivation of C-1 factors. A principles-based approach to RBC for structured securities will allow regulators flexibility in adapting to new structures as they emerge in the marketplace. The Academy reviewed six candidate principles with Investment RBC regarding this approach as follows:

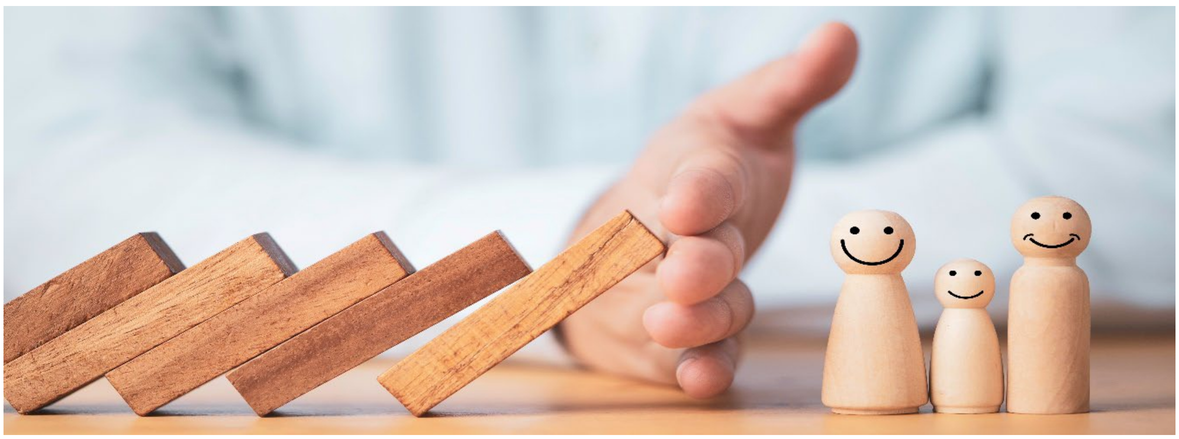
1) The purpose of RBC is to help regulators identify potentially weak capitalized insurers, therefore changes that have a small impact on RBC ratios may not justify a change to the RBC formula.
2) Emerging risks require regulatory scrutiny.
3) C-1 requirements reflect the impact of risk on statutory surplus. Changes in accounting treatment will affect RBC.
4) C-1 requirements on a given tranche align with that tranche's risk.
5) C1 requirements on asset-backed securities should treat the collateral as a dynamic pool of assets.
6) C1 requirements for asset-backed securities should be calibrated to different risk measures where appropriate.

Discussions are ongoing.

Reinsurance (E) Task Force

The Reinsurance (E) Task Force continued its discussion regarding edits to the Uniform Checklist for Reciprocal Jurisdiction Reinsurers regarding filing requirements and application procedures for the passporting state of a reciprocal jurisdiction reinsurer, discussed the need for disclosures by reporting entities regarding its structure related to catastrophic reinsurance programs and received an update on the states' implementation of the Term and Universal Life Insurance Reserve Financing Model Regulation (#787).

Valuation of Securities (E) Task Force



The Valuation of Securities (E) Task Force (VOS) discussed a referral from SAPWG regarding the bond project and the exposed reporting changes to Schedule BA of the Annual Statement for non-bond debt securities. VOS assessed if additional guidance is needed in the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual) that permits the Securities Valuation Office (SVO) to assign NAIC designations for debt securities that do not qualify as bonds but have the underlying characteristics of a bond and are properly reported on Schedule BA. VOS recommended not changing the current process that allows bond risk-based capital factors associated with NAIC designations assigned by the SVO to investments appropriately reported on Schedule BA and that this treatment remain uniform across all Annual Statement types. Additional referrals were made by SAPWG to the Capital Adequacy (E) Task Force which in turn referred this matter to Investment RBC for further discussion.

VOS exposed a proposal to the P&P Manual to update the definition of an NAIC Designation. The revisions include clarifying the meaning of NAIC designations, including their use, their purpose, and the risks that they address. The proposal consolidates the instructions defining an NAIC designation to create a single, uniform definition that includes updates addressing questions raised about the purpose of NAIC designations versus credit rating provider ratings. The exposed definition clarifies previous questions regarding credit quality, payments of interest and principal, tail risk and non-payment risks. Discussions remain ongoing.

VOS also discussed a revised proposal to amend the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual). This proposal gives discretion to the SVO to challenge an NAIC Designation submitted by a credit ratings provider through the filing exemption process which the SVO believes is not a reasonable assessment of risk for regulatory purposes. This amendment includes:

- A means to identify to insurers a filing exemption calculated NAIC Designation of concern.
- Sufficient notice to allow an insurer to provide additional information before any action is taken by the SVO.
- A formal review process by the SVO.
- Establishment of a materiality threshold to remove a credit rating provider rating or security from filing exemption eligibility.

A means to revoke filing exemption eligibility and provide notice that a full filing is required with a means to reinstate the filing exemption eligibility should conditions change.

Big Data and Artificial Intelligence (H) Working Group

Life Artificial Intelligence (AI)/Machine Learning (ML) Survey
An update was provided relating to the Life Artificial Intelligence (AI)/Machine Learning (ML) Survey that was conducted in 2023. The objective of the survey was to gain a better understanding of the use of AI and ML and the governance around the tools and data for homeowners insurance line of business. The information gathered may inform the development of guidance or potential regulatory framework to support the industry in use of AI and ML. Survey was conducted in 14 states with carriers of $250 million in life insurance premium and 10,000 lives covered in 2021 or Insurtech Company. Total of 161 companies responded to survey, none of which were InsurTech companies. As summary of the results share of the survey is as follows:

- 58% of companies currently use, plan to use or plan to explore using AI/ML, including Generalized Linear Models (GLM).
- 42% that responded they do not currently use or plan to use AI/ML responded as, “no compelling reason,” “lack of resource & expertise,” and “reliance on legacy systems/IT.”
- A breakdown of the areas in which companies that are currently using AI/ML is:
  - 36% Marketing
  - 34% Underwriting
  - 18% Pricing
  - 11% Risk Management
- The breakdown of internally developed or external parties is broken down as follows:
  - Marketing - 44% Internally Developed 56% Externally Developed
  - Pricing and Underwriting - 46% Internally Developed 54% Externally
  - Risk Management – 90% Internally Developed 10% Externally Developed (only 7 companies are using AI for this area)

Comparison of Uses from All Three Surveys
As the Life Survey was finalized the working group was able to reflect on all three surveys to consider a comparative by line of business and the use of AI/ML. It should be noted and considered that each survey is as of a point in time and the below comparison is as of the date of the surveys completed.

Completion Date of Each Survey:
P&C Personal Audit Insurance (PPA) - December 2022
P&C Home Insurance (Home) – August 2023
Life Insurance - December 2023

Number of Carriers that Responded to Survey

PPA	Home	Life
193	194	161

Results of Current Use, Plan to Use or Explore AI/ML

PPA	Home	Life
88%	70%	58%

Breakdown by Area of Use

PPA	Home	Life
Claims 70%	Claims 54%	Marketing 36%
Marketing 50%	Underwriting & Marketing 47%	Underwriting 34%
Fraud Detection 49%	Fraud Detection 42%	Pricing 18%
Rating 27%	Rating 35%	Risk Management 11%
Underwriting 18%	Loss Prevention 14%	
Loss Prevention 2%		

The working group acknowledged that the initial efforts to gain understanding and knowledge of the use of AI/ML in the industry were a great start. However, they also recognized that there were some lessons learned throughout the process.

One of the lessons learned was the need for more specific and detailed questions in future surveys. By drilling down into more specific areas, regulators can gather more precise information and insights regarding the use of AI/ML in the industry. This will enable them to have a more comprehensive understanding of the impact and implications of these technologies.

Additionally, the working group acknowledged that AI/ML is a fast-moving technology that brings about significant changes and developments in a short period. Regulators are aware of the need to keep up with these rapid changes and adapt their approaches accordingly. They recognize the importance of staying informed and continuously updating their knowledge and regulatory frameworks to effectively address the evolving landscape of AI/ML in the industry.

By incorporating the lessons learned and adapting their strategies, regulators can enhance their understanding of AI/ML and ensure that their regulatory efforts keep pace with the advancements in this technology. This will enable them to effectively oversee and regulate the use of AI/ML in the insurance industry, promoting responsible and ethical practices while fostering innovation and consumer protection.

It was noted from the working group that although this was a great start to gaining and understanding and knowledge of the use of AI/ML in the industry, there have been some lessons learned through the process. Questions that were asked in the survey would be more drilled down in future surveys and also acknowledging that this is a fast- moving technology that results in significant change in response quickly. Regulators also acknowledge that they are trying to keep with the change as it is happening.

Next Steps to be Considered
The AI Principles Bulletin issued by the NAIC serves as a set of guardrails for the use of AI/ML in the insurance industry. However, there is concern that these principles may not be properly utilized. To address this, continued collaboration among working groups is necessary to develop a regulatory framework specifically focused on the use of AI/ML that is externally developed by third parties.

In order to support the industry in navigating the complexities of AI/ML, it was discussed that whitepapers and best practices should be provided. These resources can serve as valuable guidance for insurers and regulators as they navigate the evolving landscape of AI/ML in the industry. By sharing knowledge and best practices, the industry can collectively work towards responsible and effective use of AI/ML technologies.

Throughout the discussions, it was emphasized that there is a risk associated with the use of AI/ML, and regulators need to be forward-thinking in addressing this risk. However, it was also acknowledged that keeping up with the speed of AI/ML adoption can be challenging. Despite this challenge, it is crucial for regulators to stay informed and proactive in managing the risks associated with AI/ML. This will ensure that as the technology continues to grow in the industry, the necessary measures are in place to protect consumers and promote responsible use.

By fostering collaboration, providing guidance through whitepapers and best practices, and maintaining a proactive approach to risk management, regulators can effectively navigate the evolving landscape of AI/ML in the insurance industry. This will help ensure that the industry harnesses the benefits of AI/ML while safeguarding consumer interests and managing potential risks.

Links to the Surveys on the NAIC site:

Home Report: https://content.naic.org/sites/default/files/inline-files/Home%20Survey%20Team%20Report_08102023.pdf
PPA Report - https://content.naic.org/sites/default/files/inline-files/PP%20Auto%20Survey%20Team%20Report%20120822.pdf
Life Report (excluding Executive Summary) - https://content.naic.org/sites/default/files/inline-files/life-ai-survey-report-final.pdf

Link to NAIC AI Bulletin:

https://content.naic.org/sites/default/files/inline-files/AI%20principles%20as%20Adopted%20by%20the%20TF_0807.pdf

Health Insurance and Managed Care (B) Committee

Consumer Information Subgroup Information Guides

The Consumer Information (B) Subgroup provided an update regarding consumer education on claim appeal rights. It was noted that there are four guides that are completed and available related to explanation of benefits, filing health insurance claims, how to appeal a denied health plan claim, and understanding medical necessity. The goal with these guides is to bridge the knowledge gap at the consumer level on these topics and provide guidance as needed.

State Health Plans

As states continue to build out their health plans, information sharing is vital to continue to build strong plans through collaboration of knowledge from the different states and their plans. The states of Georgia and Virginia shared information on their plans and related success.

The Representative from Georgia shared their results of the Georgia Access Exchange. The challenges were first discussed. In 2021, 1.3M people in Georgia lacked health insurance, leaving an uninsured rate of 12.7%. Those that were responsible to purchase insurance independently, only 30% did sop through the federal facilitated marketplace. Many of households that qualify for subsidiaries in the marketplace, still go uninsured. Georgia was facing a problem due to participants dropping, fewer companies providing coverage, resulting in higher premium, leading to Georgia having the 3rd highest rates of uninsured residents in the country for 2021-2022. These results turned into the goals and focus of the Georgia Access Plan. Goals were to increase competition, innovation and private section investment in the market, improve shopping and enrollment experience for the consumers and reduce number of uninsured in Georgia. There was significant effort spent on data analysis to determine network adequacy and market scan to support accessibility of providers and demographics of uninsured populations. Through the open enrollment into Georgia Access Plan in 2023, 1.5M of the uninsured are not insured, access to providers for consumers increased and providers and brokers increased. This new plan has proven success in Georgia and will continue to increase the number of insureds and defeat the challenges experienced in 2021.

The Representative from Virginia then shared some of their results of the Virginia Insurance Marketplace. This is a health insurance marketplace that fully replaces the HealthCare.gov for Virginia, it is a marketplace for Virginia, by Virginians. The goals for the marketplace are to closely coordinate with Virginia state agencies, improve coverage transitions from Medicaid to Marketplace and reduce number of uninsured Virginians. In 2023, there were almost 350,000 plans covered through open enrollment, which was an increase of almost 40,000 over 2022 and highest enrollment since 2018 in Virginia.

The experiences of Georgia and Virginia highlight the importance of information sharing and collaboration among states in the realm of healthcare. By learning from one another's successes and challenges, states can continue to refine their health plans and work towards the goal of ensuring access to quality healthcare for all residents.

Update on Medicaid Redetermination Efforts

A representative from Centers for Medicare & Medicaid Services (CMS) provided and update on their recent activities as it relates to the Medicaid redetermination efforts. As Medicaid and the Children's Health Insurance Program (CHIP) undergo a process of unwinding, the primary objective is to ensure that individuals maintain their coverage. Currently, we are eight months into this unwinding process, and approximately 50% of the population nationwide has undergone the replacement of Medicaid.

However, it is important to note that this process is not without its challenges. Achieving a seamless transition requires collaboration among consumers, agents/brokers, and HealthPlans. There is a period of confusion as some individuals may not even realize that they no longer have coverage. This underscores the significance of working closely with all partners involved and investing in outreach efforts to ensure that people maintain their coverage.

Throughout this process, several areas of improvement have been identified, particularly in relation to cost barriers and the transition itself. It is important to acknowledge that this is an ongoing work in progress. The ultimate goal is to ensure that all plans are successfully transitioned, and coverage is maintained for individuals.

By addressing these challenges and continuing to move forward, CMS aims to ensure a smooth and successful unwinding process for Medicaid and CHIP, ultimately safeguarding access to vital healthcare coverage for all individuals.

As Medicaid or the Children's Health Insurance Program (CHIP) continues to unwind, the goal it is make sure that people continue to maintain coverage. We are eight months into the unwinding process and about 50% nationwide has gone through replacement of Medicaid. The process is not seamless and take a collaboration between consumer, agent/broker and the HealthPlan. There is a time of confusion through this process as some don't even realize they no longer have coverage. It is an important time to work with all partners involved and invest in the outreach efforts to ensure people are maintain coverage. There have been several areas of improvement recognized which relate to the barriers of cost and transition. This is certainly a work in process and will continue to move forward with the goal of making sure that all plans are transitioned, and coverage is maintained.

Climate and Resiliency (EX) Task Force

There was an approved adoption of the NAIC National Climate Resilience Strategy for Insurance. The Draft was approved by the committee and will move forward into Plenary for final approval. There were three states that abstained, but document was passed. This is an internal NAIC document that is to be utilized by NAIC members, so although there were comments by interested parties relative to the transparency of the report and lack of collaboration with the partners, the draft was still passed due to the nature and purpose of the document. The mission of the document is to formalize the actions that the regulators will take to strengthen climate resilience. The document has five resiliency actions (as stated directly from the document shared in meeting materials):

- Action 1: Close Gaps – Identify and coordinate the measurement of protection gaps.
- Action 2: Flood Insurance Blueprint - Create a blueprint of the future of flood insurance.
- Action 3: Comprehensive Data – Utilize Catastrophe Modeling Center of Excellence to improve understanding of how coverages are changing and understanding data gaps.
- Action 4: Risk Mitigation – Create and coordinate new resilience tools to assist all state regulators in developing state level mitigation grant programs and expanding incentives for pre-disaster mitigation.
- Action 5: Test Scenarios – Expand insurance regulators leadership on new solvency tools.

Special (EX) Committee on Race and Insurance

The Committee heard an updated from the different workstreams as follows:

Property/Casualty Workstream – The Workstream is actively involved in addressing the regulatory aspects of managing algorithmic data usage, with a particular focus on combating bias within the industry. This effort encompasses advertising and marketing, as well as underwriting practices. To facilitate this process, the Workstream has developed a guide outlining principles of governance and a framework that the industry can adopt.

In order to enhance these guidelines and provide further guidance, the Workstream is engaging with various carriers. Through these collaborative discussions, they aim to identify and share best practices that can be implemented across the industry. This collaborative approach ensures that the industry as a whole can benefit from the collective knowledge and experiences of different carriers.

By actively addressing bias in algorithmic data usage and promoting best practices, the Workstream is working towards creating a more equitable and transparent environment within the industry. This ongoing effort will help foster trust and confidence among stakeholders while ensuring that algorithmic data is utilized responsibly and ethically.

Life Workstream – The Workstream has taken on the important task of addressing access to financial literacy based on knowledge. Recognizing the significance of this issue, they are diligently working on developing a comprehensive guide that will serve as a valuable resource in promoting financial literacy. The aim is to have a draft of the guide ready for review in the upcoming year.

In addition to the guide, the Workstream is also focused on expanding NAIC Connect. This platform serves as a hub where states can come together to collaborate and exchange ideas regarding financial literacy initiatives. By sharing successful practices and learning from one another, states can collectively work towards improving access to financial education for individuals across the nation.

The efforts of the Workstream are crucial in addressing the need for enhanced financial literacy. By providing a guide and fostering collaboration through NAIC Connect, they are actively working towards empowering individuals with the knowledge and skills necessary to make informed financial decisions.

Health Workstream – The Workstream continue to work on the survey that they plan to send out to carriers in 2024.

Update from Member Diversity Leadership Forum:

During the recent update, information was shared regarding the training initiative focused on Diversity, Equity, and Inclusion (DEI) in the workplace. This training is open to all regulators and has garnered significant participation. To date, over 1,000 regulators have taken part in the training, with a majority of participants hailing from the State of California.

In addition to the training, the group organizes quarterly meetings with DEI representatives from various states. These meetings serve as a platform for collaboration and knowledge-sharing, with each session focusing on different topics that have a significant impact on DEI efforts. This collaborative approach allows regulators to exchange best practices, learn from one another's experiences, and foster a sense of community within the National Association of Insurance Commissioners (NAIC).

By providing accessible DEI training and facilitating regular meetings, the NAIC is actively working towards promoting diversity, equity, and inclusion within the insurance industry. These initiatives not only enhance awareness and understanding but also foster a supportive and inclusive environment for regulators across the nation.

Innovation, Cybersecurity, and Technology (H) Committee

During the committee meeting, a significant decision was made to adopt the Model Bulletin on the Use of Algorithms, Predictive Models, and Artificial Intelligence (AI) Systems by Insureds. This bulletin has been in the drafting process for over a year and aims to establish regulatory expectations and guidance for insurers when utilizing AI systems in decision-making processes that directly affect consumers.

The Model Bulletin follows a principle-based approach, incorporating statutory standards that regulators expect insurers to adhere to when employing methodologies, including AI. By recognizing AI as a methodology, the bulletin provides a framework for insurers to ensure responsible and ethical use of AI systems in their operations.

This adoption of the Model Bulletin signifies a significant step towards promoting transparency, fairness, and accountability in the insurance industry's use of AI. It provides regulators with a tool to guide insurers in their decision-making processes, ensuring that the utilization of AI systems aligns with regulatory expectations and protects the interests of consumers.

A Draft as presented and adopted at the meeting can be found here: https://content.naic.org/sites/default/files/national_meeting/Materials-Att-3-2023-11-22-Model-Bulletin-NM-Draft_%20Clean.pdf

The Committee then heard a very detailed presentation on Generative AI to explore the magnitude of potential of what it can and will do in the future.

Property and Casualty Insurance (C) Committee

The Committee received presentations on the following topics:

- Use of Telematics in Auto Insurance
- Third-Party Litigation Funding

Use of Telematics in Auto Insurance - The key message conveyed during the Telematics presentation emphasized the utilization of Telematics as a means to reduce losses and mitigate risks for both consumers and carriers. It is important to note that the use of Telematics remains entirely voluntary for insured individuals, except in cases where specific carriers mandate its usage. Over time, there has been an increase in the number of insured individuals opting into this technology.

Telematics technology enables the assessment of events that lead to crashes, allowing for the sharing of knowledge and best practices with insurers and consumers. This knowledge sharing aims to promote safer driving practices and ultimately reduce risks. As Telematics becomes more prevalent, it is expected that it will contribute to better awareness among drivers, resulting in reduced risks and, consequently, lower premiums.

During the presentation, a consumer representative expressed interest and made suggestions on behalf of consumers. They emphasized the importance of addressing certain aspects to protect consumers. These include ensuring transparency to consumers, providing actuarial support to substantiate reductions in losses and premiums, imposing strict limitations on third-party access to data, establishing robust privacy standards, and preventing any biases in the utilization of Telematics data.

By considering and addressing these consumer concerns, the industry can foster trust and confidence in the use of Telematics technology. This will help ensure that the benefits of Telematics, such as reduced risks and premiums, are realized while safeguarding consumer privacy and promoting fair and unbiased practices.

Third-Party Litigation Funding - The presentation highlighted the significant impact of Third-Party Litigation Funding on case costs and its broader implications for the economy. Third-Party Litigation Funding refers to a financial arrangement where a third-party funder invests money in a lawsuit in exchange for a percentage interest in the potential recovery from a settlement or award. This practice has transformed the justice system into an investment tool.

The increase in case costs driven by Third-Party Litigation Funding has a ripple effect on various sectors. As case costs rise, it leads to increased costs of goods and insurance, ultimately impacting everyone. The presentation noted that there are at least 47 identified commercial funders with a reported total of $12.4 billion in assets under management in the US over the past 11 years. Notably, 70% of these funded assets are invested in mass tort litigation. This shift has reshaped the traditional civil justice system.

One concerning aspect highlighted in the presentation is the lack of clarity regarding who controls the strategic decisions in litigation when Third-Party Litigation Funding is involved. Often, it is not known that a funder agreement is in place, which raises questions about the influence and decision-making power of these funders. This lack of transparency contributes to the cost driver that fuels nuclear verdicts, which are excessively large jury awards. These verdicts have a significant impact on insurance carriers and the overall economy.

The presentation underscored the need to address the impact of Third-Party Litigation Funding on case costs and its broader consequences. By understanding and addressing the challenges associated with this practice, stakeholders can work towards a more balanced and sustainable civil justice system that considers the interests of all parties involved.

P&C Data Call - An update was provided regarding a data call initiative focused on gathering property insurance information. This initiative was undertaken in response to the Committee's directive to gain a comprehensive understanding of property insurance markets and address the existing insurance protection gap.

The data call aims to collect relevant information from the top 80% of homeowners insurers. By targeting this significant portion of the market, the Committee seeks to gather comprehensive data that will provide valuable insights into the property insurance landscape.

The purpose of this data call is to enhance the Committee's understanding of the property insurance market, including factors such as coverage availability, pricing, and potential gaps in insurance protection. By gathering this information, the Committee can identify areas where improvements can be made to ensure adequate insurance coverage for homeowners.

This data-driven approach will enable the Committee to make informed decisions and develop strategies to address the existing insurance protection gap. By leveraging the insights gained from the data call, the Committee can work towards enhancing the property insurance market and promoting greater financial security for homeowners.

Cyber and Risk Assessment Meeting

A presentation by the Center for Insurance Policy and Research (CIPR) highlighted the increasing risk of cyber security across all industries, including insurance. They provided a comprehensive assessment of cybersecurity events in the insurance industry over the past decade, emphasizing the need for initiatives and best practices to reduce the frequency and severity of cyber risks.

As the insurance industry continues to adopt updated and new technologies, the risk of cyber threats also continues to grow. The presentation discussed the various regulatory frameworks and guidance that have been put in place to assist in mitigating this risk. These measures have played a crucial role in reducing the overall cyber risk faced by the industry.

Following the CIPR presentation, CyberCube provided insights into the underwriting of cyber risk. The presentation focused on the considerations involved in underwriting this particular risk. Key areas of focus included identifying companies and segments that are most vulnerable from a security perspective, understanding the types of technology dependencies that make insurers more susceptible to losses, and assessing the types of events that can result in the largest losses.

Given that cyber risk is an evolving threat, it is essential to manage this risk through evolving models and approaches to underwriting. By staying up-to-date with the latest developments and continuously refining underwriting practices, insurers can effectively assess and manage cyber risks.

Overall, the presentations highlighted the importance of addressing cyber security risks in the insurance industry. By implementing best practices, regulatory frameworks, and evolving underwriting models, the industry can better protect itself and its policyholders from the increasing threat of cyberattacks.

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