



## NAIC Report – 2022 Summer National Meeting

September 15, 2022

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The National Association of Insurance Commissioners (NAIC) held its 2022 Summer National Meeting from August 9-13 in Portland, Oregon.

The agenda for this National Meeting was again limited, with a number of NAIC committees, working groups and task forces meeting in the weeks prior to the meeting. Consequently, in this report, we offer highlights from both the Summer National Meeting and other meetings that took place recently. Notable developments include the following:

- The NAIC Executive and Plenary adopted the list of 13 Regulatory Considerations Applicable (But Not Exclusive) to Private Equity (PE) Owned Insurers. Many of the 13 considerations were referred to other working groups for further consideration.
- The Reinsurance Financial Analysis (E) Working Group reported that 56 jurisdictions have adopted the 2019 amendments to the *NAIC Credit for Reinsurance Model Law* (#785) and, as of the date of this Alert, all US states and territories except the US Virgin Islands have adopted the 2019 amendment to the 2019 amendments to the *NAIC Credit for Reinsurance Model Regulation* (#786) in some form. Any US jurisdiction that has not adopted laws that are consistent with the US/EU and US/UK Covered Agreements faces potential federal preemption.
- The NAIC adopted the Pet Insurance Model Act. A near-final version of the Model Act was approved earlier this year, but minor technical issues stalled the adoption process. Key elements of the Model Act relate to consumer protection, preexisting pet conditions, wellness programs and training requirements.

We do not cover every meeting in this report; rather, we comment on select noteworthy developments and matters of interest to our clients.

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### 1. Innovation, Cybersecurity, and Technology (H) Committee Adopts Request for Modernized Privacy Protections Model Law; Receives Working Group Reports

The **Innovation, Cybersecurity, and Technology (H) Committee** met on August 10, 2022, where the committee adopted the **Privacy Protections (H) Working Group [request for model law development](#)** to replace two existing model laws – the *Insurance Information and Privacy Protection Model Act* (#670) and *Privacy of Customer Financial and Health Information Regulation* (#672). The request notes that the current model laws “were adopted several decades ago [and that] a new model law is necessary to enhance the consumer protections and the corresponding obligations of entities licensed by the insurance department to reflect the extensive innovations that have been made in communications and technology over these decades.” A draft of the new model law is expected to be exposed for comment in late 2022 or early 2023.

The committee also received the following reports from its working groups:

i. *Big Data and Artificial Intelligence (H) Working Group Receives Workstream Reports*

On August 10, 2022, **Big Data and Artificial Intelligence (H) Working Group** Chair Superintendent Dwyer (RI) summarized the reports of the working group’s four workstreams:

- **Workstream One** (focusing on artificial intelligence (AI) and machine learning (ML) surveys) reported that the working group has produced a confidential data analysis report on the AI/ML Auto Survey data. The working group expects to present its private passenger auto survey report at the 2022 Fall National Meeting. The working group also expects to finalize the AI/ML survey for home business and issue a data call within 30 days of the survey being finalized. The working group expects to finalize the AI/ML survey for life business shortly after the Summer National Meeting.
- **Workstream Two** (focusing on third-party vendors and models) reported that it is considering several approaches for enhanced regulatory oversight of third-party vendors and models, including requiring contracting insurance companies to certify that an actuary or other insurance professional has reviewed the model for compliance with AI standards prior to using the model. Another option is the creation of a library of third-party vendors classified by line of business and operational area. The workstream expects to provide additional information on this topic to the committee during the 2022 Fall National Meeting.
- **Workstream Three** (focusing on regulator use of AI/ML systems) continues to evaluate tools and resources that state insurance regulators can use to evaluate and monitor insurer AI/ML systems, that is, “SupTech.”
- **Workstream Four** (focusing on the NAIC AI Principles) continues to focus on how to implement the expectations outlined in the [NAIC Principles on Artificial Intelligence](#).

ii. *Privacy Protections (H) Working Group Progresses Consumer Data Ownership and Use White Paper and Survey*

In addition to the new model law project discussed above, the **Privacy Protections (H) Working Group** reported that it is in the process of reviewing and compiling responses to the [Consumer Data Ownership and Use Survey](#). The Working Group intends to use the responses to the survey to guide the Consumer Data Ownership and Use White Paper, which is likely to include a discussion of the following topics: data use; data protection; how consumers’ personal data is collected, used, and processed in insurance transactions; and comparisons of how data ownership rights differ under different laws. The working group reported that the first draft of the white paper will be completed in December 2022 and exposed for a two-month comment period.

iii. *Collaboration Forum Holds Algorithmic Bias Fly-In*

The Collaboration Forum is intended to bring different NAIC groups together to collaborate and hold educational events for groups considering similar issues. The first topic for consideration by the H Committee Collaboration Forum is unfair bias in algorithms and AI/ML-driven decisional systems. As part of the initial Collaboration Forum, the NAIC hosted an “Algorithmic Bias Fly-In” in order to provide ongoing communication with all the related NAIC working groups, provide foundational education in algorithmic bias for regulators and develop common vocabulary. Committee Chair Commissioner Birrane (MD) noted that the committee plans to develop a practical guidebook for state insurance regulators to utilize and that the committee intends to prepare a high-level outline for comments at the 2022 Fall National Meeting. Members of working groups that are considering unfair bias in algorithms and AI/ML-driven decisional systems are expected to meet again in September under the auspices of the Collaboration Forum to hold additional educational sessions.

iv. *NAIC Staff to Develop Innovations, Cybersecurity and Technology (ICT) Hub Webpage*

Commissioner Birrane provided updates on the Innovations, Cybersecurity and Technology (ICT) Hub that will permit users to identify the various innovation, cybersecurity, data privacy and/or technology work products that have been or will be developed by the NAIC. NAIC staff is in the process of developing a new webpage to help the various committees collaborate and coordinate these workstreams.

## 2. Market Regulation and Consumer Affairs (D) Committee Adopts Recommendations for Incorporation of Artificial Intelligence (AI) in the NAIC Market Information Systems

The **Market Regulation and Consumer Affairs (D) Committee** met on August 12, 2022. The committee adopted the report titled "[Recommendations for the Incorporation of Artificial Intelligence in the NAIC Market Information Systems](#)." The report provides recommendations, including (i) surveying current market analysis data and identifying deficiencies; (ii) adopting a more rigorous statistical approach to identifying the predictive power of market scoring systems; (iii) incorporating various AI modes of analyses as well as traditional statistical modeling; (iv) assessing ways AI can improve the efficiency of qualitative analysis and facilitate pattern recognition across larger volumes of textual evidence; and (v) exploring potential data sources suitable for AI techniques. The report is the **final product of the Market Information Systems (D) Task Force's** charge to make recommendations regarding the use of AI techniques in the NAIC Market Information Systems.

## B. Environmental, Social and Corporate Governance (ESG)

### 1. Special (EX) Committee on Race and Insurance Receives Workstream Reports

The **Special (EX) Committee on Race and Insurance** met during the Summer National Meeting and received reports from each of its five workstreams, which are summarized below:

- **Workstream One** (diversity, equity and inclusion (DEI) within the industry) reported that members of the workstream are currently working on draft diversity and inclusion recommendations for the insurance industry and are planning to meet to finalize the recommendations.
- **Workstream Two** (DEI within state insurance departments and the NAIC) reported that it was gathering survey responses from the NAIC geographic zones and examining best practices and initiatives that state insurance departments may wish to consider when promoting internal DEI efforts. District of Columbia Department of Insurance, Securities and Banking (DISB) Commissioner Karima Woods also gave a presentation on her department's research into potential bias in the use of certain underwriting factors, including credit scores and occupation in personal lines of business. The DISB held a public hearing on June 29 followed by a request for comment regarding unintentional bias, which ended on August 22. The DISB is currently working on a data call to collect additional information.
- **Workstream Three** (access to property and casualty insurance) has not met since the 2022 Spring National Meeting but has determined that it will focus its efforts on active involvement with the work of the Collaboration Forum on Algorithmic Bias, which serves as a collaborative platform for innovation, cybersecurity and/or technology issues, where multiple NAIC working groups are conducting related or overlapping work. It was reported that regulators need additional education and expertise to understand potential algorithmic bias issues prior to implementing new standards regarding the same. The workstream intends to look at marketing first as the Special (EX) Committee on Race and Insurance looks at how to evaluate complex models and identify and mitigate bias. To begin that work, the workstream is planning a session at the NAIC Insurance Summit to be held September 19-23, where a panel will discuss the use of marketing and advertising in personal lines insurance and how it relates to access for diverse populations.
- **Workstream Four** (access to life insurance) reported that it met with the Financial Alliance for Racial Equity (FARE) and announced that it is planning to host a meeting in either September or October 2022 focusing on life insurance access in minority communities. The workstream intends to meet with the life insurance agents to better understand what efforts they are undertaking to reach minority communities.
- **Workstream Five** (regarding access to insurance in the health insurance market) reported that it held the first two meetings in a series of four meetings it plans to hold this year. The first meeting on June 30 focused on provider network composition and the following questions: (i) What are the most common deficiencies in provider networks for plan enrollees of color; and (ii) what can state insurance regulators do to improve those deficiencies? The workstream also met on August 23, 2022, to focus on barriers to care in benefit design, including how cost sharing, utilization management and prescription drug formularies could be creating barriers for communities of color. The workstream's last meeting of the year will be held on September 20, 2022, and will focus on innovations in benefit design and what state insurance regulators can do to promote them.

### 2. Climate and Resiliency (EX) Task Force Receives Workstream Reports

The **Climate and Resiliency (EX) Task Force** met on August 11, 2022 and received reports from its five workstreams, which are summarized below:

- The **Solvency Workstream** developed three referrals to the **Financial Analysis Solvency Tools (E) Working Group** ([available here](#)), the **Financial Examiners Handbook (E) Technical Group** ([available here](#)) and to the **Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup** ([available here](#)) of the **Group Solvency Issues (E) Working Group**. The referrals provide high-level principles for those groups to consider and develop as appropriate for inclusion in relevant financial solvency regulation materials (i.e., the Financial Analysis Handbook, the Financial Condition Examiners Handbook, and the ORSA Guidance Manual, respectively). The proposed modifications include procedures for utilizing the property and casualty risk-based capital catastrophe reporting data, enhancements to the planning and fieldwork phases of financial examinations and incorporating the consideration of climate change risks into field examinations of insurers' investment management programs, underwriting processes and reinsurance programs.
- The **Innovation Workstream** met on May 16, 2022 to hear a presentation from Zurich North America regarding commercial builders' risk policies that include a weather-based parametric trigger.

- The **Technology Workstream** met June 9, 2022 to hear a presentation from the National Oceanic and Atmospheric Administration on its use of predictive software to identify upcoming weather events, particularly severe convective storms.
- The **Pre-Disaster Mitigation Workstream** met multiple times since the 2022 NAIC Spring National Meeting, including in May 2022 to hear a presentation from the California Prescribed Fire Council regarding vegetation management through prescribed fires, and again in June 2022 to hear a presentation from the US Forest Service (USFS) on a similar topic.
- The Climate Risk Disclosure Workstream has not met since the 2022 Spring National Meeting but did host two events to assist insurers that are required to submit the [new climate risk disclosure survey](#).

## C. Financial Issues of Particular Interest

### 1. NAIC Adopts Private Equity Regulatory Considerations List

The **Financial Stability (E) Task Force** (FSTF) and the **Macprudential (E) Working Group** (MWG) met in a joint session on August 12, 2022, and discussed the [Regulatory Considerations Applicable \(but not exclusive\) to Private Equity \(PE\) Owned Insurers \(PE Considerations List\)](#). The final PE Considerations List was adopted by FSTF and MWG on June 27, 2022; by the Financial Condition (E) Committee on July 21, 2022; and by the Executive (EX) Committee and Plenary during the 2022 Summer National Meeting.

Justin Schrader (NE), Chairman of the MWG, provided an update on the disposition by referral of each of the 13 regulatory considerations. Below are some highlights:

- The **Holding Company Structures Consideration** (Consideration 1) and **Ownership & Control Consideration** (Consideration 2) were referred to the **Group Solvency Issues (E) Working Group** (GSIWG) for further analysis.
- The **Investment Management Agreement Consideration** (Consideration 3) was referred to the **Risk-Focused Surveillance (E) Working Group** (RFSWG) and the **Valuation of Securities (E) Task Force** (VOSTF) for further analysis.
- The **Insurer Ownership Consideration** (Consideration 4) was referred to the **Risk-Focused Surveillance (E) Working Group**, as it is already looking at some of this work related to affiliated agreements and fees. The Considerations List also notes that the **Life Actuarial Task Force** (LATF) work already addresses this consideration.
- The MWG decided to retain the **Operational, Governance and Market Conduct Practices Consideration** (Consideration 5) within its scope to develop more specific suggestions.
- The **Related Party Originated Investments (including CLOs) Consideration** (Consideration 7) was referred to the **Statutory Accounting Principles (E) Working Group** (SAPWG).
- The **Underlying Affiliate & Related Party Investments and/or Collateral and Structured Securities Consideration** (Consideration 8) was referred to the SAPWG and the **Examination Oversight (E) Task Force** (EOTF).
- The **Pension Risk Transfer (PRT) Business Consideration** (Consideration 12) was referred to LATF and the **Longevity Risk Transfer (LRT) Subgroup** of the **Life Risk-Based Capital (E) Working Group**.

The MWG intends to post a tracking document of the 13 Considerations to monitor the progress of these referrals as specific guidance is produced. The first iteration is [available here](#).

### 2. Mutual Recognition (E) Working Group Approves List of Jurisdictions That Recognize and Accept US Group Capital Calculation

On June 29, 2022, the **Mutual Recognition (E) Working Group** approved a list of five jurisdictions – European Union Member States, the United Kingdom, Bermuda, Japan and Switzerland – as jurisdictions that “recognize and accept” the US Group Capital Calculation. The US GCC is not applied to an insurance group as a whole in these approved jurisdictions. Rather, the US recognizes the home jurisdiction’s ability to regulate the group at the ultimate controlling person level (but can apply a subgroup GCC for the US operations, if necessary). The **Financial Condition (E) Committee** unanimously adopted the list of jurisdictions on July 21, 2022.

### 3. Financial Condition (E) Committee Adopts New Related Party Reporting Requirements

The **Financial Condition (E) Committee** adopted two items pertaining to the identification of related party investments. The primary goal of both items is to incorporate new reporting requirements for investment transactions with related parties in order to provide more transparency into the involvement of related parties. The first item, Statutory Accounting Principles (E) Working Group item [2021-21: Related Party Reporting](#) incorporates new reporting requirements for investment transactions with related parties. The second item, Blanks Working Group’s agenda item 2021-22BWG, requires new reporting codes for several investment schedules. This reporting applies to all investments involving related parties, regardless of whether they meet state definitions for an affiliate. The two items will take effect on December 31, 2022.

### 4. Risk-Based Capital Investment Risk and Evaluation (E) Working Group to Develop RBC Charges for CLOs

The **Risk-Based Capital Investment Risk and Evaluation (E) Working Group** (RBCIREWG) met on August 11, 2022, during the NAIC Summer National Meeting. Philip Barlow (DC), Chairman of the RBCIREWG, noted that, in response to clear direction from the **Financial Condition (E) Committee**, the Working Group’s first priority would be to develop a scheme for determining risk-based capital (RBC) charges on collateralized loan obligations (CLOs). He plans to coordinate closely with VOSTF, which is working on the

modeling of CLOs, and with SAPWG, which is working on the Bond Project ([see item C.7, below](#)). As the process gets started, however, Mr. Barlow proposed a shorter-term “interim” step to immediately address what he described as the concern about potential “arbitrage” in the structuring of assets through CLOs as well as the residual tranches of any securitization. It is unclear what the interim step would entail or when it would be implemented. Chairman Barlow announced that the RBCIREWG would be assisted by the American Academy of Actuaries (Academy) C-1 Working Group.

## 5. Macroprudential (E) Working Group Reports on Annual Liquidity Stress Test Results

The **Macroprudential (E) Working Group Chair**, Justin Schrader (NE), reported that the NAIC staff received and performed initial reviews on over 21 groups for 2021 liquidity stress test filings. Mr. Schrader reported initial findings, including that total assets sold increased from the baseline adverse scenarios while decreasing for the other three scenarios. He reported that the majority of asset sales are from Treasuries and agency bonds, along with some investment-grade public corporate bonds.

Mr. Schrader also reported that a **Liquidity Stress Test Separate Account Study Group**, chaired by Carrie Mears (IA), had its first meeting on July 29, 2022. The study group is considering how to include non-insulated separate accounts in the liquidity stress test filings as well as to discuss liquidity risk within insulated separate accounts. The discussions will consider which insulated separate account products are subject to existing SEC stress testing requirements and compare them to those that are not, and, if warranted, design an appropriate liquidity stress test for the NAIC’s Macroprudential purposes. The study group is expected to include industry representation and is planning to meet in September 2022.

## 6. Group Solvency Issues (E) Working Group Reports on Proposed ComFrame Revisions to NAIC Manuals and Handbooks

The **Group Solvency Issues (E) Working Group** (GSIWG) met on August 11, 2022, and reported on the proposed revisions to the *Own Risk and Solvency* (ORSA *Guidance Manual*, *Financial Condition Examiners Handbook* and *Financial Analysis Handbook*). The ORSA Drafting Group and the Financial Exam Drafting Group developed recommendations regarding proposed revisions to the *ORSA Guidance Manual* and the *Financial Condition Examiners Handbook* to incorporate elements of the International Association of Insurance Supervisors’ (IAIS) Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). Justin Schrader (NE), Chairman of the GSIWG, led a discussion of comments received from the American Council of Life Insurers (ACLI), the American Property Casualty Insurance Association (APCIA), the National Association of Mutual Insurance Companies (NAMIC) and Travelers on proposed revisions to the *ORSA Guidance Manual* and the *Financial Condition Examiners Handbook*. The comments were reviewed by the **ORSA Drafting Group** and the **Financial Examination Drafting Group**, respectively, and, as deemed appropriate, were incorporated into the updated *ORSA Guidance Manual* and the *Financial Condition Examiners Handbook*. The *Financial Analysis Handbook* was re-exposed in 2022 and is focused on ensuring that there is consistency with the changes made to the *ORSA Guidance Manual* and the *Financial Condition Examiners Handbook*. The GSIWG adopted the proposed revisions to the *ORSA Guidance Manual* for the 2023 publication and approved referrals of the *Financial Condition Examiners Handbook* and the *Financial Analysis Handbook* revisions to their respective working groups for adoption.

## 7. Financial Condition (E) Committee Provides Update on Bond Project

The Financial Condition (E) Committee received a [memo](#) from the **Statutory Accounting Principles (E) Working Group** indicating that SAPWG *agenda item #2019-21* (commonly referred to as the *Principles-Based Bond Definition Project*), will result in principally defining investments permitted to be reported on *Schedule D-1: Long-Term Bonds*. The working group anticipates having adopted guidance in effect for year-end 2024 or year-end 2025.

## 8. Statutory Accounting Principles (E) Working Group Considers Principles-Based Bond Definition and Initial Issue Paper

The **Statutory Accounting Principles (E) Working Group** held a call on July 18, 2022, and met on August 10, 2022, to discuss comments on an updated [principles-based bond definition](#) along with an initial draft [Bond Issue Paper](#) exposed by the working group on March 2, 2022. As a general matter, the revisions to the reporting of bond investments are intended to improve the granularity of investment reporting. Among other things, the principles-based bond definition revisions would change annual statement general instructions to capture issuer credit obligations and require asset-backed securities to be reported on *Schedule D-1* of the *Annual Statement Instructions*. Under the reporting option *Schedule D-1 Annual Statement Instructions*, there are two separate schedules, with *Schedule D-1, Section 1* detailing issuer credit obligation (items captured in scope of [SSAP No. 26R](#) (Bonds)) and *Schedule D-1, Section 2* detailing asset-backed securities (items captured in scope of [SSAP No. 43R](#) (*Loan-Backed and Structured Securities*)). With this approach, separate columns and instructions can be considered for the different broad investment classifications. A variety of schedule and instruction changes are proposed for each schedule.

The working group has exposed the proposed revisions until October 7, 2022. The earliest the guidance could be effective with both accounting and reporting revisions in place would be January 1, 2024. This would require that the reporting revisions be adopted by the Blanks (E) Working Group in May 2023.

## 9. Valuation of Securities (E) Task Force Adopts Amendments to the Purposes and Procedures Manual

The Valuation of Securities (E) Task Force met on August 11, 2022, and adopted the following amendments to the NAIC *Purposes and Procedures (P&P) Manual*: (i) clarifying the role of the NAIC Securities Valuation Office (SVO) regarding interpreting accounting and reporting, (ii) updating Part Four for NAIC designation categories and additional price points, and (iii) updating the definition of principle-protected notes (PPNs).

The task force also exposed, for a 30-day comment period ending September 12, 2022: (i) its 2023 charges; (ii) an SVO [memorandum](#) on alternatives to add fixed income analytical risk measures to investments reported on Schedule D, Part One; (iii) a revised proposed amendment to the *P&P Manual* to update the definition of other nonpayment risk assigned a subscript "S"; and (iv) a staff presentation responding to comment letters received on an NAIC Structured Securities Group report on the Investment Analysis Office [Risk Assessment of Structured Securities - CLOs](#).

## D. Property and Casualty Insurance Items of Particular Interest

### 1. NAIC Adopts Pet Insurance Model Act

The **Executive (EX) Committee and Plenary** adopted the [Pet Insurance Model Act](#) (Model Act) on August 13, 2022. The Model Act, which was adopted by the **Property and Casualty Insurance (C) Committee** earlier this year, focuses on the following key elements:

- **Consumer Protections:** The Model Act codifies several consumer protections related to policy renewals, required disclosures of waiting periods, policy limits, conditions, benefit schedules and more. Robust disclosures allow consumers to affirmatively choose the policy that is best for them in a world with dozens of available options.
- **Preexisting Conditions:** The Model Act limits how insurers can deny pet insurance claims related to preexisting conditions of covered pets. And the onus is on the insurer to prove those preexisting condition limitations apply.
- **Wellness Programs:** The Model Act explicitly requires insurers and their producers to clearly differentiate pet wellness programs from insurance policies to help eliminate consumer confusion between insurance policies and noninsurance wellness programs.
- **Producer Training Requirements:** The Model Act codifies training requirements for insurance producers to ensure that producers are appropriately prepared to present information to consumers.

## E. Life Insurance Items of Particular Interest

### 1. Life Insurance and Annuities (A) Committee Report

The **Life Insurance and Annuities (A) Committee** met on August 11, 2022. The committee adopted [Actuarial Guideline 53](#) (Application of the Valuation Manual for Testing the Adequacy of Life Insurer Reserves). The committee also received an update from the **Accelerated Underwriting (A) Working Group**, which is continuing to develop guidance for state regulators related to accelerated underwriting. The working group plans to meet next in October 2022.

The committee also accepted a report from the LATF, which included the following items:

- The LATF is considering asking the **Life Insurance and Annuities (A) Committee** to consider limited, targeted revisions to the *Life Insurance Illustrations Model Regulation* (#582) to address the need for LATF to make continual changes to the indexed universal life illustration actuarial guideline to address product features causing aggressive illustrations.
- The **LATF VM-22 (A) Subgroup** reported that it has been working through comments received over the past several months on the draft [VM-22 PBR: Requirements for Principle-Based Reserves for Non-Variable Annuities](#) exposed on July 21, 2021. Upon the resolution of the remaining comments, the VM-22 document will be re-exposed, after which the subgroup will transition to addressing the development of the Standard Projection Amount. Chair Ben Slutsker (MN) reported that the subgroup is targeting a draft of the Standard Projection Amount to discuss during subgroup calls this fall. The subgroup is also targeting a VM-22 field test to begin in spring 2023. It was noted that the current timeline may result in an effective date of January 1, 2025 (with a three-year transition period for implementation), but the timeline will be revisited as the subgroup's work progresses.

### 2. Index-Linked Variable Annuity (A) Subgroup Continues Work on Actuarial Guideline

Chair Pete Weber (OH) reported that the **Index-Linked Variable Annuity (A) Subgroup** is continuing its development of an actuarial guideline (ILVA AG) on interim value requirements related to registered index-linked annuities (RILAs). Chair Weber reported that the subgroup is on the fourth draft of the ILVA AG and getting very close to having something to bring to the LATF. The comments on the [fourth draft](#) were due by August 23, 2022 and were reviewed by the Subgroup during a call on August 29. Subsequently, a fifth draft was exposed on September 8 – with comments, due by September 16 – and is scheduled to be discussed on a Subgroup call currently scheduled for September 20. The subgroup intends to make a recommendation to LATF once the review is complete.

## F. Other Items of Particular Interest

### 1. Reinsurance (E) Task Force Reports All Jurisdictions Have Adopted 2019 Credit for Reinsurance Model Law

On June 25, 2022, the **Reinsurance (E) Task Force** received reports from the **Reinsurance Financial Analysis (E) Working Group** (ReFAWG) and NAIC staff, noting that, as of the date of the task force meeting, 56 jurisdictions have adopted the 2019 amendments to the *NAIC Credit for Reinsurance Model Law* (#785), and 50 states have adopted the 2019 amendments to the *NAIC Credit for Reinsurance Model Regulation* (#786). (As of the date of this Alert, all US states and territories except the US Virgin Islands have adopted the 2019 amendments to the Model Regulation in some form.) The task force also reported that the Federal Insurance

Office (FIO) is focusing on certain “technical” details pertaining to state insurance laws’ consistency with the US/EU and US/UK Covered Agreements and that it may be necessary for states to adopt minor changes after the FIO completes its preemption analysis. NAIC staff also reminded states that they are required to post a list of reciprocal jurisdictions and reciprocal jurisdiction reinsurers on their respective websites. Pursuant to the Covered Agreements, the FIO must conduct its preemption analysis by September 2022. If the FIO director finds that a US jurisdiction’s laws and regulations do not comply with these requirements, the jurisdiction’s laws will be federally preempted.

## 2. International Insurance Relations (G) Committee Receives Presentation on AM/ICS Comparability

The **International Relations (G) Committee** met on August 10, 2022, and received a presentation on the US Federal Reserve Board’s Insurance Policy Advisory Committee (IPAC) regarding the impact of the International Association of Insurance Supervisors (IAIS) Insurance Capital Standard (ICS) on the US life insurance industry. An IPAC white paper concludes that the ICS is not appropriately tailored to US business practices, products and market and that US insurers designated as “Internationally Active Insurance Groups” (IAIGs) would be competitively disadvantaged compared to non-IAIGs operating in the same market.

The committee also heard an update on recent activities and priorities of the IAIS, including the implementation of the IAIS Holistic Framework and the IAIS’ continued assessment of whether the US-backed Aggregation Method (AM) provides comparable outcomes to the ICS. For background, in November 2017, the IAIS set out an agreement on the implementation of ICS Version 2.0, including a unified path to the convergence of group capital standards in furtherance of its ultimate goal of a single ICS that achieves comparable outcomes across jurisdictions. Multiple US stakeholders, including insurance trade associations and the NAIC, have expressed opposition to the IAIS’ draft criteria for determining whether the AM for assessing insurance group capital is comparable to the ICS. The IAIS is currently considering public comments that were submitted in response to the IAIS’ draft criteria.

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