Testimony of the
National Association of Insurance Commissioners

Before the
Subcommittee on Capital Markets, Insurance, and
Government Sponsored Enterprises

Committee on Financial Services
United States House of Representatives

Regarding:
"Working with State Regulators to Increase Insurance
Choices for Consumers"

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Introduction

Good morning, my name is Ernie Csiszar. I am President of the National Association of Insurance Commissioners and Director of Insurance for the State of South Carolina. Two weeks ago, Financial Services Committee Chairman Oxley spoke to our organization about various regulatory reform concepts he is proposing. At that meeting, he solicited the input of the NAIC on those regulatory reform concepts, and encouraged us to work together as partners to create a regulatory scheme that would provide stable insurance markets and protect insurance consumers. Thank you for allowing us the opportunity to appear today before the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises to provide input on the broad regulatory reform concepts outlined by Chairman Oxley.

Shared Goals

We want to continue our partnership with Congress to modernize and reform state insurance regulation. As partners, we look forward to having a seat at the table to provide comment, insight, and input on achieving high regulatory standards, better competition, greater consumer choice, marketplace stability, and consumer protections. We share Chairman Oxley's and this Committee's goals for modernizing state insurance regulation. Our work over the past three years demonstrates our commitment to regulatory uniformity and modernization.

Responding to Chairman Oxley's Specific Goals

In response to Chairman Oxley's request for input, we would like to respond to the specific regulatory reform concepts he believes should form the basis of an effective system of national insurance regulation.

1. Goal for Life Insurance Products: Build off of System for Electronic Rate & Form Filings (SERFF) and a strengthened Interstate Compact to achieve single-point filing and time-certain review of life insurance products such as annuities, life insurance, and long-term care. NAIC fully supports achieving electronic single-point filing for all insurance products, and we have a system for implementing it. Filings submitted through this single point of entry tripled in 2003 over 2002, and filings in 2004 are expected to reach 140,000 to 150,000. More than 20 states are considering the Interstate Insurance Product Regulation Compact, which creates uniform national standards for products filed with the compact and provides a central point of filing for life insurers

2. Goal for Other Insurance Lines: Single point of filing with expedited review based on clear standards for personal forms, including auto, homeowners, and other property-casualty insurance lines. NAIC supports the goal of single point of filing and expedited review, but also recognizes that property-casualty insurance rates, forms, and claims on personal lines are inherently linked to local conditions and state laws that vary across the United States. The state system accommodates variations in these local conditions because consumers in Ohio do not want to pay auto or homeowners rates based upon losses experienced in California, Florida, Massachusetts or elsewhere. States have implemented review standards checklists that clearly describe – in plain English – what an insurer must do to receive authorization to sell its products. Forty-five states have already adopted checklists and posted them on the internet for easy access by insurers. These checklists enumerate the standards that states apply during filing reviews and are product specific.

3. Goal for Commercial Policyholders: Single choice-of-law for large multi-state commercial policyholders, and limited review for sophisticated commercial policyholders. Commercial insurance rates and products are not closely regulated by states because the buyers are sophisticated professionals and the products are

specifically tailored for each customer. NAIC is willing to work toward streamlining commercial law differences that can be addressed through the insurance regulatory system when we receive more details about existing problems identified by the Financial Services Committee.

4. Goal for Setting Rates Through Competition: Illinois-style free-market competition (like all other financial products) for personal property-casualty insurance lines. The business of insurance and the methods for regulating it are much different from other financial products like banking and securities. Based upon many years of effort, we do not believe a single national rating or product regulation model for personal property casualty insurance lines is appropriate or feasible, whether imposed by the states or the federal government. The significant differences in risks and local conditions from one state to another produce challenges to a "one size fits all" regulatory approach for such essential products as homeowners and auto insurance. Regulators are working to harmonize rate and form filings among states, while recognizing that the difficult issues underlying them are best handled at the state level. Of the fifty-one regulatory jurisdictions, there are only 15 that apply a prior approval rating environment for all personal lines policies. There are three jurisdictions that use a different system for auto insurance than for homeowners coverage, and the remaining 36 jurisdictions apply some form of competitive rating for both auto and homeowners insurance.

5. Goal for Insurance Company Licensing: Single point-of-entry for insurance company licensing based on adequate standards under ALERT. NAIC fully supports this goal, and states are currently implementing it. All jurisdictions accept the NAIC Uniform Certificate of Authority Applications (UCAA), which provides a standard set of filing requirements for insurers seeking licensure in a state. Electronic systems for facilitating the UCAA filing, initially put in place in 2001, are presently undergoing substantial modifications to significantly streamline the completion of applications. The system is being made "smarter"

by programming it to interface with the NAIC Financial Data Repository to allow for semi-automated completion of a UCAA. We are also codifying best practices and procedures for assessing licensing applications, which is intended to raise the level of consistency among states' decision-making processes for issuing or denying licensing authority.

6. Goal for Licensing of Agents: Nationwide reciprocal licensing for agents, with movement towards uniformity. NAIC fully supports this goal, and states have successfully implemented licensing reciprocity consistent with NARAB requirements. However, it is important to note that current lack of uniformity and non-compliance with NARAB for some states does not mean lower licensing standards. For example, full legal certification to meet national requirements under NARAB would require states such as California and Florida to actually lower their standards for fingerprinting license applicants to prevent fraud. The NAIC has developed a draft Authorization for Criminal History Record Check Model Act, and continues to have informal discussions about access to the FBI's criminal history database with representatives of the FBI. While states are currently able to obtain access to the FBI database through the adoption of proper legislative authority, federal law prohibits states from sharing criminal history record information with each other. The NAIC continues to seek solutions to resolve the prohibition against the sharing of information, and has asked Congress for full statutory authority to access FBI fingerprint files so that national uniform producer licensing can be effectively implemented.

7. Goal for Market Regulation: Ensure nationwide and uniform adoption of a consensus market conduct law. NAIC fully supports this goal, and states are currently working to implement a common market regulation system derived from the best practices and approaches that exist within the state insurance regulatory community. These practices include market analysis and a continuum of regulatory responses based upon that analysis, uniform examination procedures, interstate collaboration for multistate problems, and uniform collection of market

data. We are committed to moving forward aggressively on these practices. For example, every state has appointed a market analysis coordinator, and training on market analysis techniques is scheduled to begin in May.

8. Goal for Federal-State Insurance Coordination: Create an evenly divided federal-state insurance coordination council without regulatory authority that can help resolve conflicts between state and federal policies and advise the President and Congress on insurance tax policy. A Presidential appointee would additionally be created without any regulatory or licensing power for the sole purpose of approving or disapproving the coordination recommendations of the council. We understand from Chairman Oxley that the creation of a federal administrative body to oversee insurance regulation must be explored carefully. We concur. Legislation that creates a federal regulator or some other entity may do more to confuse, rather than clarify, regulatory responsibilities. We are concerned that any organization established under federal law to interpret and oversee implementation of national regulatory standards would inevitably raise troublesome questions of "who's in charge" of state insurance regulation. Regulatory confusion in the dynamic insurance marketplace would breed harmful uncertainty that is counter-productive to achieving reforms. We are also concerned that a federally-established body asserting federal powers to preempt state consumer protection laws could become controversial, as with OCC's preemption of state predatory lending laws for banks. Congressional policy oversight is very helpful to state officials trying to resolve national issues, but federal administrative intrusion could be detrimental. An alternative process that worked recently was the NAIC's successful certification of NARAB compliance by states, as set forth in the Gramm-Leach-Bliley Act. While we are willing to talk and explore ideas, the NAIC believes the concept of direct federal oversight of state regulation must be approached with great caution.

Additional Input

Chairman Oxley asked NAIC to provide input on additional issues that should be part of a national insurance regulatory modernization effort. We are actively engaged in continuous improvement of our state regulatory system in several very important areas that are not mentioned in Chairman Oxley's specific goals set forth above. Many of these involve efforts to improve consumer protection and education for individuals and families who purchase insurance. Adding these goals to the Committee's agenda could strengthen and broaden the appeal of any legislative effort made by the Financial Services Committee. Our research shows that consumers across the country want national protections that establish standards for fair treatment by insurers, but they also want each state to maintain its ability to provide further protections based upon local needs.

Conclusion

The NAIC appreciates this opportunity to offer its input to Congress. However, all we have seen or discussed at this point are general concepts and goals, which we largely support. It is not possible for NAIC or anyone to clearly comment or support specific legislation in a very complex area such as insurance regulation until the actual language of a bill is available to review and analyze.

We understand very well that the "devil is in the details" on insurance legislation because we constantly deal with it in developing NAIC models and working with our state legislatures back home. However, we look forward to fully participating in the process as these issues are considered and discussed. Insurance regulatory modernization and protection of our fellow insurance consumers are not, nor should they ever be, mutually exclusive notions. We can and must achieve both these important objectives.