

CLIENT ALERT

Preview: 2022 NAIC Spring National Meeting

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The National Association of Insurance Commissioners (the “NAIC”) will hold its 2022 Spring National Meeting (the “Spring National Meeting”) from April 4-8, 2022 in a hybrid format, with meetings taking place virtually and in Kansas City, Missouri. A group of Willkie attorneys will attend the Spring National Meeting in person to follow the key topics listed below, among others.

A link to the full agenda for this meeting is available [here](#). Please contact any of the attorneys listed below if you would like to discuss these topics before or after the Spring National Meeting.

I. Climate and Resiliency (EX) Task Force (Wednesday, April 6, 9:00 a.m. EDT)

The Climate and Resiliency (EX) Task Force (the “Climate Task Force”) will consider the adoption of the NAIC’s Insurer Climate Risk Disclosure Survey (the “Climate Risk Survey”). The Climate Risk Disclosure Workstream developed the Climate Risk Survey to align with standards established by the Task Force on Climate-Related Financial Disclosure (“TCFD”), created by the Financial Stability Board, which have become the global standard of climate-related financial disclosure since TCFD published its original disclosure recommendations in 2017. The Climate Risk Disclosure Workstream also added insurance-specific elements to the survey. If adopted during the Spring National Meeting, the Climate Risk Survey would replace the current eight-question survey that participating states have been using since 2010.

We also expect the Climate Task Force to hear a presentation on federal updates to better understand the impact of climate change on the insurance industry.

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II. Long-Term Care Insurance (EX) Task Force (Wednesday, April 6, 4:30 p.m. EDT)

The Long-Term Care Insurance (EX) Task Force (the “LTCI Task Force”) will hear updates on the current activity of its two subgroups, which have been focused on long-term care insurance financial solvency, multistate rate review, and reduced benefit options.

The LTCI Task Force adopted the Long-Term Care Insurance Multistate Actuarial Rate Review Framework (the “LTCI MSA Framework”) on December 12, 2021. The goal of the framework is to create “a consistent national approach for reviewing current long-term care insurance (LTCI) rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization.” The Executive (EX) Committee and Plenary will consider adoption of the LTCI MSA Framework at the Spring National Meeting, with implementation expected by September 2022.

III. Special (EX) Committee on Race and Insurance (Wednesday, April 6, 1:30 p.m. EDT)

The Special (EX) Committee on Race and Insurance (the “Special Committee”) continues to focus on developing an understanding of the issues surrounding race and insurance and historically underserved populations. At the Spring National Meeting, the Special Committee will receive updates related to its various workstreams, and it will consider adopting the “Principles for Data Collection” document that was developed by workstream five. This document contains high-level guiding principles for the collection, maintenance, protection and reporting of data on race, ethnicity and other demographic information in the health insurance business.

IV. Property and Casualty Insurance (C) Committee (Thursday, April 7, 11:30 a.m. EDT)

The Property and Casualty Insurance (C) Committee will consider the adoption of the Pet Insurance Model Law that was developed by the Pet Insurance (C) Working Group. The model law seeks to establish appropriate regulatory standards for the pet insurance industry and promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold. The model law would require insurers transacting pet insurance to make various disclosures to their customers, and sets out additional disclosure requirements for insurers that wish to exclude certain coverages on the basis of preexisting conditions or impose waiting periods upon the effectuation of a policy.

The (C) Committee will also hear a report analyzing private passenger auto (PPA) insurance results. Willkie attorneys are following the work of certain subgroups, including the Catastrophe Insurance (C) Working Group and the Cannabis Insurance (C) Working Group, and we will report on any material developments in these areas.

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V. Financial Condition (E) Committee (Tuesday, April 5, 3:30 p.m. EDT)

The Financial Condition (E) Committee will receive updates from its task forces and working groups.

- Statutory Accounting Principles (E) Working Group (“SAPWG”). On March 2, 2022, SAPWG held an interim meeting to discuss its progress on the NAIC’s principles-based bond project (the “Bond Project”), the goal of which is to clarify what should be considered a bond and reported accordingly on Schedule D-1 (Long-Term Bonds) of an insurance company’s statutory financial statements. As part of the Bond Project, SAPWG is developing a principles-based bond definition, and following the March 2nd meeting, it exposed the updated version of the definition for public comment until May 6, 2022.

At the Spring National Meeting, SAPWG will discuss comments received on a related document, which was exposed at the 2021 Fall National Meeting, that explores new reporting options as a result of the Bond Project. The document addresses proposals to establish more granular reporting of investments on Schedule D-1 and to create a new Sub-Schedule D-1 that would detail bond investments with certain characteristics.

- Financial Stability (E) Task Force. The Task Force will meet jointly with the Macroprudential (E) Working Group (“MWG”) at the Spring National Meeting. They will receive an update on activity related to the list of “regulatory considerations applicable (but not exclusive) to private equity-owned insurers” (the “PE List”), which MWG adopted on February 1, 2022. MWG is in the process of establishing a baseline of activities to be included in the PE List.

The Task Force and MWG will also consider adopting the Macroprudential Risk Assessment, which is a new process that consists of three parts: (i) a process document that summarizes the way macroprudential risk assessment will be conducted and how the results should be used, (ii) a risk dashboard for regulators only that will provide a mix of data and analysis structured around risk categories, and (iii) a public risk report that will summarize regulators’ views on industry risk using the activities-based approach to risk assessment.

- Valuation of Securities (E) Task Force. The Task Force will provide an update on its project to review the NAIC’s reliance on rating agency designations, and it will discuss proposed amendments to the Purposes and Procedures Manual of the NAIC Investment Analysis Office.
- Restructuring Mechanisms (E) Working Group. The Working Group held a meeting on March 28, 2022 in lieu of the Spring National Meeting at which it continued discussing comments on a draft white paper that addresses the need for the new restructuring statutes and the issues those statutes are designed to remedy, and considers the impact the new forms of restructuring may have on guaranty associations. The Working Group also referred a matter to the Receivership and Insolvency (E) Task Force involving potential revisions to the *Property and Casualty Insurance Guaranty Association Model Act* (#540). These contemplated amendments would ensure that

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policyholders retain guaranty fund coverage in the context of insurance business transfers (IBT) and corporate division (CD) transactions.

VI. Financial Regulation Standards and Accreditation (F) Committee (Tuesday, April 5, 5:15 p.m. EDT)

The Financial Regulation Standards and Accreditation (F) Committee intends to discuss the applicability of the accreditation program to captive insurers that reinsure variable annuity business, which topic was referred by the Financial Condition (E) Committee. The (F) Committee will also address whether to include the 2021 receivership amendments to the *Insurance Holding Company System Model Act* (#440) and the *Insurance Holding Company System Model Regulation with Reporting Forms and Instructions* (#450) in the accreditation program, which was referred by the Receivership and Insolvency (E) Task Force. These holding company amendments, adopted by the Executive (EX) Committee and Plenary on August 17, 2021, aim to ensure efficient coordination with affiliates and to enforce the continuation of essential services by an affiliate to an insurer in the event of insolvency.

VII. International Insurance Relations (G) Committee (Thursday, April 7, 9:00 a.m. EDT)

The International Insurance Relations (G) Committee will discuss the progress of certain projects at the International Association of Insurance Supervisors (“IAIS”) related to its comprehensive set of reforms regarding the cross-border supervision of internationally active insurance groups (“IAIGs”). These projects include the assessment of (i) the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame), (ii) the holistic framework for assessing and mitigating systemic risk, (iii) the risk-based global insurance capital standard (“ICS”) that will apply to IAIGs, and (iv) the comparability of the ICS and the aggregation method (AM), which is used as part of the NAIC’s group capital calculation. The (G) Committee will also discuss updates regarding the IAIS’s plans for addressing emerging risks.

VIII. Innovation, Cybersecurity and Technology (H) Committee (Tuesday, April 5, 3:30 p.m. EDT)

The new Innovation, Cybersecurity and Technology (H) Committee will consider certain changes to its organizational structure (e.g., moving the Privacy Protections Working Group from a (D) to an (H) Committee), and it will receive updates from the following working groups.

- Big Data and Artificial Intelligence (H) Working Group (the “Big Data Working Group”). The Big Data Working Group will provide an update on its survey regarding the use of artificial intelligence (“AI”) and machine learning (“ML”) in private passenger auto insurance to better understand carrier practices. The Big Data Working Group will discuss the status of preparing an AI/ML Life Insurance survey and an AI/ML Homeowners (HO) survey, the development of which will be informed by the results of the private passenger auto insurance survey.

The Big Data Working Group will also address the following topics at the Spring National Meeting: (i) ways to monitor the insurance industry’s use of third-party data and model vendors, and (ii) ways to implement the NAIC’s

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expectations set forth in the Artificial Intelligence (AI) Guiding Principles (e.g., through the development of regulatory guidance or a model regulation), which principles were adopted at the 2020 Summer National Meeting.

- Privacy Protections (D) Working Group. The Privacy Protections Working Group will provide an update on its 2022 Work Plan, which includes proposing revisions to the NAIC privacy models (i.e., the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672)) and drafting additional work products to address consumer data ownership and use rights, such as a white paper.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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