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Focus on Education

At NOLHGA's 2024 Legal Seminar, NAIC President Andrew Mais & Secretary-Treasurer Beth Dwyer discuss how education is at the heart of what regulators do, from teaching consumers about the value of insurance to helping international regulators understand how state regulation operates to working with NOLHGA to grasp the intricacies of the guaranty system.

Andrew Mais

Beth Dwyer

Andrew Mais is Commissioner of the Connecticut Insurance Department and President of the NAIC. He is also a member of the International Association of Insurance Supervisors (IAIS) Executive Committee and was elected Executive Committee Vice Chair in May 2024. Beth Dwyer is Director of the Rhode Island Department of Business Regulation, Secretary-Treasurer of the NAIC, and the NAIC representative to the Financial Stability Oversight Counsel (FSOC). She was the recipient of the NAIC's 2023 Raymond G. Farmer Award for Exceptional Leadership.

Andy and Beth were kind enough to sit down with me during NOLHGA's 2024 Legal Seminar in July to discuss the key issues facing insurance regulators and the industry. The following is an edited transcript of their remarks.—Katie Wade

Wade: Looking at the NAIC's 2024 priorities, we see closing the protection gap and widening financial inclusion as a focus. Andy, can you talk to us about your perspective on this?

Mais: Every NAIC President gets to choose a theme, and my theme for the year is "mind the gap." It was stolen from the London tube announcement.

We have a significant protection gap in this country across so many lines of insurance. I think retirement's probably the largest. But just look at property/casualty or auto and you see what's going on. Even where it's legally

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President's Column by Katie Wade

Resolution Regimes, At Home & Abroad

I was asked to provide comments on the U.S. receivership system and international standard setting to the NAIC's International Insurance Relations (G) Committee at their meeting in August 2024. The following is an edited version of my remarks.

The United States has a well-established guaranty system that has stood the test of time for more than 50 years. Since the early 1970s, the guaranty system has a strong track record of working with regulators and receivers to protect policyholders, and we appreciate the work of the NAIC and state regulators to enhance and improve the U.S. receivership regime. Specifically, the NAIC and the states have adopted updates and enhancements to both the Life and Health and Property and Casualty Insurance Guaranty Association Model Acts to improve regulatory tools and respond to evolving insurance market developments.

The NAIC and the states have also been active participants in international discussions and standard setting around resolution and guaranty system matters (or "policyholder protection schemes (PPSs)," as they are referred to internationally). Resolution-related topics and PPSs have received heightened attention internationally, particularly in the last two to three years. International discussions around resolution and PPSs can be particularly challenging, given the wide divergence among jurisdictions when it comes to resolution philosophies, structures, and sophistication. Any international discussion of PPSs

and resolution standard setting, like the ones mentioned below, needs to recognize those foundational jurisdictional differences.

IAIS Issues Paper on PPSs

In December 2023, the IAIS published an *Issues Paper on roles and functioning of policyholder protection schemes*, which is a supplement to the 2013 PPS Issues Paper. As you know, the Issues Paper is not intended to set new standards regarding supervisory practices. Rather, it is intended to serve as a guide for jurisdictions considering establishing or modifying an existing PPS. NOLHGA and the NCIGF commented extensively on both the 2013 Issues Paper as well as the 2023 version. While not a regulatory tool, the current Issues Paper includes important updates to recognize jurisdictional differences in PPSs, including:

- The 2023 Issues Paper presents a neutral perspective on the timing of resolution funding through assessments—*ex post* vs. *ex ante* funding. The 2013 version had a strong bias toward *ex ante* funding, whereas the most recent Issues Paper provides a more balanced view, with the addition of U.S. perspectives on the benefit of *ex post* funding.
- The Paper recognizes the importance of estate assets in funding a resolution, which had previously been overlooked by focusing only on assessments when considering guaranty system capacity.
- The Paper emphasizes the importance of early cooperation and coordination between regulators and PPSs, with specific references to the NAIC's Receivership Financial Analysis Working Group (RFAWG) and NOLHGA and NCIGF's participation in portions of RFAWG meetings to enhance coordination between the guaranty system and regulators.
- The Paper now includes the previously missing U.S. perspective on the sale of the insolvent insurer (also known as a portfolio transfer) as a means to avoid a liquidation or as the most efficient means for a PPS to discharge its obligations to provide continuing coverage for policyholders of a company in liquidation.
- The Paper more clearly addresses the issue of moral hazard associated with PPSs, stating that there does not appear to be any evidence in any jurisdiction that an existing PPS with reasonable coverage limits has induced moral hazard.

The IAIS's Holistic Framework

In March 2024, the IAIS published a consultation paper revising certain provisions of the Insurance Core Principles and ComFrame (ICPs 12 and 16). Comments were due at the end of June. The IAIS's consultation on ICPs 12 and 16 followed the 2022 Targeted Jurisdictional Assessment of the Holistic Framework, which revealed lower implementation of standards related to recovery and resolution. The IAIS decided to clarify ICPs 12 and 16 to make its expectations more evident.

NOLHGA and the NCIGF, along with the industry and the NAIC, provided comments. We focused our comments on elements of the consultation that have a nexus to PPSs. Our key themes included:

- PPSs can and should play an important role in developing or assessing resolution strategies and should be a part of or otherwise support resolution planning, crisis management

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groups, and other coordination efforts, with appropriate confidentiality in place.

- Supervisors and/or resolution authorities should coordinate and cooperate with PPSs—early involvement is a critical part of policyholder protection.
- Operating without a PPS puts policyholder protection at risk.
- Liabilities should only be written down in extremely rare instances. In no event should insurance liabilities be restructured, limited, or written down in a way that deprives policyholders of the protections afforded by their PPS.

Mandatory Preemptive Recovery or Resolution Planning

Although our comments focused on resolution regime matters, many of the proposed revisions in the IAIS consultation on ICPs 12 and 16 relate to recovery planning and resolution planning. For example, the consultation would require supervisors and/or resolution authorities to have a process in place to regularly assess which insurers are required to have a recovery plan and which insurers are required to have a resolution plan. The proposed standards would also require recovery plans for any insurer assessed to be systemically important or critical in failure.

Thus far, the NAIC and the states have declined to include mandatory preemptive recovery or resolution planning in Model Laws or state laws/regulations. The NAIC has drafted a sample description of the U.S. Receivership Regime to provide an overview of the U.S. receivership and guaranty system based upon Model Laws, recognizing that there is some variation among the states. The sample description was adopted into the *Receivers' Handbook for Insurance Company Insolvencies* by the Receivership and Insolvency (E) Task Force. It was also included by the Financial Analysis (E) Working Group in the *Troubled Insurance Company Handbook* for regulator use. This sample description can be used by state regulators to describe the U.S. receivership regime to international supervisors in discussions of resolution planning and in supervisory colleges or crisis management groups.

As demonstrated by the sample description, the United States has much to be proud of in its long-tenured, effective resolution regime that gives state regulators a number of tools to address a troubled or insolvent company—not the least of which is a robust and time-tested PPS, the U.S. guaranty system. Our resolution regime has—in my opinion—a number of advantages when compared with those of other regions.

In the EU, for example, insurance recovery and resolution are governed by national laws, resulting in significant discrepancies from country to country. In the event of an insurer failure, policyholders are not consistently protected across the EU because the existing resolution regimes are incomplete and uncoordinated. EU PPSs have been developed only for certain products and vary greatly from country to country, resulting in a patchwork approach that leaves some EU policyholders without protection. To address the gaps and lack of coordination on resolution matters among EU Member States, the European Parliament and European Council recently reached a provisional agreement establishing resolution regime requirements at the EU level, in an attempt to bolster insurance resolution tools and procedures among the Member States. Member States will have to set up national resolution authorities, and the European Insurance and Occupational Pensions Authority (EIOPA) will have a coordinating role.

The EU considered (but decided against) adopting minimum standards requiring Member States to have broad-based PPSs. For the time being, the EU instead intends to rely on recovery and resolution planning. Member States will be required to have at least 60% of the life and non-life insurance and reinsurance market submit preemptive recovery plans. Resolution authorities will be required to prepare resolution plans for 40% of their insurance/reinsurance market.

Obviously, this is quite different from the approach taken in the United States. Through Model Laws, financial monitoring, uniform financial and receivership resources, and collaborative systems, the NAIC and the states have worked hard to establish state-based resolution regimes and a national guaranty system that are structured in a coordinated fashion, ensuring that policyholders are protected when an insurer is in hazardous financial condition or fails.

The proven effectiveness of the U.S. system relies to a great degree on the close working relationship between the guaranty system and regulators. In closing, I'd like to say once again that we appreciate the opportunity we've had recently to partner with the NAIC and state regulators on several Receivership Tabletop Exercises. The guaranty system has found these opportunities to foster early cooperation and coordination and frank dialogue with regulators to be extremely useful, and we look forward to more such opportunities in the future.

Katie Wade is NOLHGA's President.

Sights & Sounds
from NOLHGA's 2024 Legal Seminar

NOLHGA's 2024 Legal Seminar was held in Boston on July 25 and 26. Here are some of the highlights.

Pamela Epp Olsen: *Chair, 2024 Legal Seminar Planning Committee*
"The work of the guaranty association system is of critical importance to policyholders and contract holders. We're proud of the work we do on behalf of our policyholders, and we're grateful for what each of the constituents involved in this system also does to support our work."

Pension Risk Transfers: Separating Fact from Fiction

Moderator: William O'Sullivan: *Senior Vice President & General Counsel, NOLHGA*

"When we decided to get into the pension risk transfer business, we spent a lot of time with our regulator—Iowa in this case—on the risks and how we were thinking about holding capital against those risks. That formed a confidence for us to compete in the market."
Sean Brennan: *Executive Vice President of Pension Group Annuity and Flow Reinsurance, Athene Holding Ltd; Partner, Apollo Global Management*

"When you are the domestic regulator, you understand your company. There is no black and white, "50% concentration in a certain line is too much." It's understanding the company, understanding the books, understanding the capital required for that, and really having a holistic understanding of the solvency of the company."
Beth Dwyer: *Director, Rhode Island Department of Business Regulation*

"To me, when it comes to the guaranty associations, benefit reductions occur as a very last resort after everything else has been done. That's why they are so rare. Benefit reductions at the PBGC [Pension Benefit Guaranty Corporation] are a first resort. Congress has demanded when the plan participants come in that there are three or four different cuts that have to happen automatically, even if they have plenty of money to pay everybody. It's just a different system."
Preston Rutledge: *Founder & Principal, Rutledge Policy Group*

Reinsurance: The Basics & Beyond

Moderator: Michael McDonald: *Senior Counsel, NOLHGA*

"There are a lot of different ways reinsurance can benefit consumers, and a lot of them go back to the basic tenets of insurance, which is a mechanism to pool risk and spread it out. Consumers buy direct insurance products—health, life, property—to spread that risk among a whole bunch of people for when the worst happens. Insurance companies do the exact same thing—they pool their risk with reinsurers and spread it out among a lot of different balance sheets."
David Altmaier: *Partner, The Southern Group*

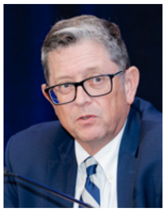
"The very nature of private equity is that they don't have the full transparency and disclosure of a publicly traded company. But once they get into the insurance space, it will force more transparency. I think at some point in time, there will be decisions by private equity in their ownership of insurance and reinsurance companies that they will disclose more than they do in other businesses just because they're in a business that requires it."
John Huff: *President & CEO, Association of Bermuda Insurers & Reinsurers*

"Having that stability model—you have your domestic insurers, then you have your reinsurers over them that will take a quota share or a piece of the business—helps the stability of the marketplace. When you're looking at reinsurance, it is one of the pieces of the puzzle that we have to put together to make sure, to the best of our ability, that these companies are able to do what they say they will do—insure these people's lives or health and be there when they need them."
Chlora Lindley-Myers: *Director, Missouri Department of Commerce & Insurance*

Luncheon speaker **Andrew Perlman** (Dean & Professor of Law, Suffolk University Law School) strongly advocated for the use of artificial intelligence in the legal profession, citing its value in helping in the early stages of drafting legal briefs and in "stress-testing" possible arguments. But he warned that it can be prone to false information ("it's the best gaslighter you have ever met") and that overreliance on AI could lead to a loss in analytical ability.

ICPs, ICS & More: International Regulatory Issues

Moderator: Katharine Wade: *President, NOLHGA*



"You all understand that you're either at the table or you're on it. It's very important for us to be at the table, because what happens internationally is going to eventually dribble down and have an impact domestically. Those issues are going to be discussed whether you're at that table or not, so it's important for us to be part of the conversation."
Eric Dunning: *Director, Nebraska Department of Insurance*

"On the life and annuity side, the macroeconomic environment, which is often what drives conduits of risk into that sector, is very volatile right now—interest rates have moved around a lot, credit risk is an issue, liquidity, and the types of alternate assets being used by life insurers and reinsurers. All those things are increasing solvency and resolution risk in the insurance sector. It's been a little while since we've seen a significant life insurance company failure, and so

there's a renewed attention around the safety net around insurance companies. I think that's a well-placed concern."
Paul Petrelli: *President & CEO, Assuris*

"When you look at the insurance sector in the United States, it's going through a structural transformation. And that transformation is increasing the cross-border nature of what our life insurance sector has historically been."
Steven Seitz: *Director, Federal Insurance Office*

LTC—A New Perspective on Retirement

Moderator: Nolan Tully: *Partner, Faegre Drinker Biddle & Reath*

"The industry needs to figure out how to continue engaging our customers, and communication strikes me as one of the best ways to move us forward along those lines. With communications, we can bring forward ideas such as wellness programs as well as innovative solutions such as digital or online services, instead of just sending them premium increase notices."
Catherine Z. Collins: *VP, US Deputy General Counsel & Chief Counsel US Insurance Law, John Hancock*

"Our product is a contract built on an annuity chassis with an LTC rider and a wellness rider attached. We had to figure out this complicated web—some states considered the product an annuity, but other states said, "you're in LTC now, and you have this whole new set of rules." Getting regulators up to speed on what we were doing was also a challenge. One way we overcame that was to make sure we were available at the drop of a hat if a regulator wanted to talk to us about how the product worked."
Emily Kresowik: *Assistant General Counsel, EquiTrust Life Insurance Company*

"We're working with the industry and regulators to come up with a more consistent process of review through the multistate actuarial review process on LTC products. The uptake by industry has not been significant. We've made great strides in the states coming together to understand that if we don't come together as a regulatory body, there will be more Penn Treaties, there will be more SHIPs in rehabilitation."
Paul Lombardo: *Assistant Deputy Commissioner, Life & Health Division, Connecticut Insurance Department*

Navigating the Intersection: Health Care Sharing Ministries & Insurance Law

Moderator: Kirsten Byrd: *Partner, Husch Blackwell LLP*

"When it comes to policy concerns, I think what gets lost quite often is the nature of these organizations. Most often, these are religious organizations. The vast majority of my experience is with members who understood exactly what they purchased and purchased it for a reason—because they're unhappy being forced to pay for things they don't believe in."
Buddy Combs: *Chief Legal Officer/General Counsel, OneShare Health*

"We have information about health care sharing ministries on our website. Some of my colleagues shy away from that because we don't regulate them, so they shouldn't be on our website. I get that, but I have a different perspective. When it comes to consumer protection, I'm always preaching that education is key—we need to educate the public on these ministries—what they are and what they're not."
Glen Mulready: *Commissioner, Oklahoma Insurance Department*

"Many people do not understand when they buy these that they are not insurance. They look an awful lot like insurance, though they're clearly not allowed to say they're insurance. But people's experience with the plans often is that they buy them and don't understand what's not covered. There are a lot of complaints about ministries not paying claims."
Nancy Turnbull: *Senior Associate Dean for Educational Programs, Senior Lecturer in Health Policy, Harvard T.H. Chan School of Public Health*

A New Framework for Insurer Investments

Moderator: Jennifer Webb: *Chief of Staff, NOLHGA*

"One thing to keep in mind when we talk about the ratings is that they're an input into the actuarial process. When we build our models, we use the ratings to determine the default charge in the model. So it does have some significance to our cash flow testing. And payment uncertainty is based, at least in part, on the assigned ratings."
Marc Altschull: *Chair, Life Investment Analysis Subcommittee, American Academy of Actuaries*

"When you look at the assets that insurers are increasingly acquiring, they are higher-yielding assets, generally with the same capital reserve requirements as other similarly rated assets. Yet they have higher yield, and that yield comes from at least two major sources. One is an illiquidity premium, but in some of these assets there's also potentially a systemic risk premium. These assets, while they may be low risk overall through many cycles, are at higher risk of defaulting at the same time that other insurance assets are defaulting."
Richard Cantor: *Vice Chairman, Moody's Investors Service*

"That's what the framework for regulation of insurer investments is—an attempt to bring together all the issues we're working on in one document to make sure that both the commissioners and industry understand our overall framework. It's only six pages long for a very, very complicated issue. Our goal is equal capital for equal risk, which is really easy to say and really hard to do."
Beth Dwyer: *Director, Rhode Island Department of Business Regulation*

Regulating the Future: AI, Law & Compliance

Moderator: Matthew Gaul: *Partner, Corporate & Financial Services, Willkie Farr & Gallagher LLP*

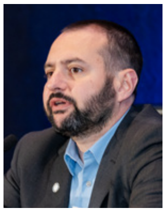
"What we were trying to do in passing our law and now promulgating regulations was build trust for consumers. I believe we have an obligation as regulators to ensure that the tools insurance companies are using are being used fairly. And candidly, we did not have the ability to tell consumers that, when it came to artificial intelligence or big data in general, they were being treated fairly."
Michael Conway: *Commissioner, Colorado Division of Insurance*

"When I talk to clients, the first thing I tell them is to do an AI survey of your organization. Figure out where AI tools of any stripe are being used. Because different organizations have tolerance for different amounts of entrepreneurial activity by their employees. Sometimes you'll find that folks are using tools you don't know about."
Laura Jehl: *Partner, Privacy, Cybersecurity & Data Strategy, Willkie Farr & Gallagher LLP*

"When it comes to mitigating discrimination or disparate impact, it turns out that in the world of machine learning and AI, most of the time there is much more opportunity for fairness—to find an algorithm that is similarly performant but is actually less discriminatory. And your competitors, if they're looking at it, are doing this."
Nicholas Schmidt: *Founder & CTO, SolasAI; Director & A.I. Practice Leader, BLDS, LLC*

The ABCs of TPAs

Moderator: Pamela Epp Olsen: *Chair, NOLHGA Legal Seminar Planning Committee*



"In a holding company with an affiliated TPA, one of the main things we focus on is fair and reasonable terms on the fees being paid to the TPA. We want to make sure they are not charging too much and skirting around getting approval for dividends by filtering them through fees. We also want to make sure they are not charging too little, because we want to make sure an insurance company can stand on its own if something happens to the TPA."
Kenneth Cotrone: *Insurance Certified Supervising Examiner, Connecticut Insurance Department*

"The written agreement with the TPA has very specific guidelines that you prescribe that direct them on how they are to handle the book of business they are administering for you—their authority is only that which you give them. It goes back to the fact that you as the insurer or the customer remain responsible for the payment obligations."
Lynda Loomis: *Vice President of Operations, Guaranty Association Benefits Company*

"In a receivership, you need to be talking directly with the TPAs—looking at the contract, looking at what resources they have and are willing to keep on the job, and assuring them that they are a Class One expense. They are going to get paid. If you owe them money, you better pay them, to keep them engaged. They have most of the information you need to manage the company."
Daniel Watkins: *Principal, Law Offices of Daniel L. Watkins*

Cybersecurity: Legal & Ethical Considerations for U.S. Critical Infrastructure

Moderator: Daniel McCarty: *Counsel, Eversheds Sutherland US LLP*

"Guaranty associations are really good about keeping track of things from a financial standpoint. Most of us have a financial audit every year. These cybersecurity questions need to be on that same level. They need to be taken as seriously as you take your financial considerations."
Jacqueline Rixen: *Principal, RixenLaw; General Counsel, Texas Life & Health Insurance Guaranty Association*

"For decades, the philosophy in cybersecurity has been to build big walls. Do whatever you can to prevent anyone from getting in who is not supposed to. Now, we have shifted to what is called zero trust, which means that once you are "in the building," we still do not trust that you should be there, and we still do not trust that you should just be able to wander freely everywhere you go. We want to have locked doors and cameras inside the building."
Jeffrey Rothblum: *Director, Cyber Policy & Programs, Office of the National Cyber Director*

"Artificial intelligence was more of a buzzword over the past few years, but it is no longer overhyped as far as the threat perspective goes. They are using AI-crafted phishing e-mails. Back in the day, you could tell that English was not someone's first language when they were sending you those suspicious e-mails. Those same individuals are using AI to send you really sophisticated e-mails that even we sometimes have trouble differentiating."
William Walker: *Chief of Staff, U.S. Cyber Command (now Executive Director, National Center of Excellence for Cybersecurity in Critical Infrastructure, and Director of National Security and Cyberspace Programs, West Virginia University)* ✯

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required, there certainly is not enough, and we need to be able to address that in so many ways.

One way is by education, and the NAIC has devoted significant resources here. I probably shouldn't say this yet, but as you will see soon, we are devoting significant resources to increasing our communications and creating a whole new strategy. We have outreach across various populations—especially to the underserved populations—so they understand the importance of insurance.

Right after this meeting, I've got to go do a couple TV interviews. Every year, they slap you in front of a camera and you've got to do these interviews with 20 or 25 stations. This year, we're talking about a study that we recently did about Gen Z—18- to 27-year-olds—who are just starting out their financial life. And sadly, in so many states, they don't have the financial education. They didn't get the training and information, whether in high school or elsewhere, that leads them to want to have that proper foundation.

Looking at the numbers, 35% of the Gen Z'ers have insurance to cover their cell phones, but only 21% have renter's insurance. We surveyed about a thousand people, and 54% said they were overwhelmed and anxious when they started thinking about insurance, so they put it off. They put off buying life insurance. They put off buying health insurance. It's not good. We need to be able to reach them.

Part of the outreach we're doing through our DEI efforts is trying to reach underserved communities. But there are other important parts of inclusion. Inclusion, to me, is making sure the products being offered are best suited to the needs of a community or communities, and that those products are as affordable as possible, with as little friction as possible, with as few barriers as possible.

That's what we've been trying to do through the Special Committee on Race and Insurance, which was started by my mentor, Ray Farmer, former South Carolina Director and former President of the NAIC.

We need to reach out to people. We know it's not going to be easy. We know it's an ongoing process. And we know, as I said, there are various tools that we have to use. We're looking at innovation through technology, micro insurance, all the stuff that will make better products, more relevant products, more available to everyone.

We want to make sure that people get that message about how important insurance is, which is why I do interviews about Gen Z and other groups. I want to make sure people know that when they get insurance, or when they're looking for insurance, they've got someplace to go.

It's education. It's innovation. If you look at the life workstream in the Special Committee, they are proposing a national system of high school financial education. We're doing a lot. It's not enough—it will never be enough. We don't

> Inclusion, to me, is making sure the products being offered are best suited to the needs of a community or communities, and that those products are as affordable as possible, with as little friction as possible, with as few barriers as possible.—Andrew Mais

expect to get this done in one step, but certainly we intend to keep the ball rolling to get a little bit closer to that goal by the end of this year.

Wade: Turning to the Innovation, Cybersecurity and Technology Committee, which has been around now for a little bit, what have they accomplished so far, and what do you see them accomplishing this year and in the future?

Dwyer: I think there was some frustration for the first year that not a lot was coming out of the committee, but what we were doing was studying things. Putting something out when you haven't really looked at the landscape wouldn't have been good, and we wouldn't have gotten the product we did.

I hope a lot of you have read the AI bulletin that came out last year. We really tried to strike a balance. None of us can keep up with what's happening in AI. If I told you what I knew about it today, it would be different next week. We have to balance the benefits that can come from the use of AI. There are a lot of things that can benefit consumers. But we also have to recognize that there are potential detriments. I think we've all seen some of the documentaries and read articles on potential bias—unintended, but in there—in the AI processes. So how do we tease all of that out?

I think the AI bulletin does a good job of balancing those two and saying to insurers, "we acknowledge this is here. We acknowledge this is beneficial, but when you're using it, you need to be careful and understand what you're doing before you utilize it in your processes and in your products."

We really focused a lot on corporate governance. A small property and casualty mutual is not the same thing as a large life insurer. They're going to utilize AI differently, and your corporate governance needs to be there. This is a living document, so I think you will see changes over the years. It's been adopted by 13 states, I think. Both Commissioner Mais and myself are 2 of the 13. I think more and more states will adopt it. But I also think as technology progresses, you're going to see changes to that document.

We're also looking at the ever-present cybersecurity risk. I was Chair of the working group that drafted the data security model a number of years ago. Early in that process, I was looking at the unfair trade practices law, and it actually said something about cathode ray tubes. Somebody put it in the regulation. Of course, by the time I was reading it, no one knew what cathode ray tubes are.

To me, that was a lesson that we've got to be careful how we draft these models. We need to keep our mandatory requirements a little bit more general so that companies can utilize the most modern technology that can assist consumers. That's one of the reasons why a lot of what we're doing is centered on corporate governance. If you look at the data security model, it says as a company you are going to understand what you need for cybersecurity and put in appropriate guidelines. Then there's a list of 12 things those guidelines could include, depending on what type of company you are. That's kind of a theme—it's the responsibility of the company as well as the regulator.

There's also a big issue with third-party providers. Do the companies understand the data they're getting, and can they communicate that to the regulator? How are we going to do that? There's a new working group on that.

We're also looking at how we use AI. How do we use innovation to make government more efficient, to make the ways that we serve consumers more efficient? I've been with the department 24 years. I hate saying this, but I remember a three-and-a-half-month delay on getting an insurance producer license out because everything was in paper. That problem has been solved. It's not perfect, but it's way better than it used to be.

I know George Bradner in the Connecticut department has been leading the idea of using AI in rate and form filings. That's a labor-intensive job. Is there a way that we can use AI to identify the changes in forms? Can insurers use that to identify the changes so you're not redoing your forms each time?

These are all very exciting ways to make things better for consumers. Solve the problem, but do it in less time. We'll continue to look at things. I am sure six months from now, there will be something new. I can't tell you what it will be, but the committee will be looking at it.

Mais: I think it's very important what Director Dwyer said at the end, about insurers being able to use that technology too. Because this is a way of reducing not just the work that is being done within the department, but also the time that it takes to get to market. Reducing costs.

You want to protect consumers. You want to get consumers the products as affordably as possible. That means we have to find ways to take costs out of the system, and AI is one way to do that. If you're a company using the same type of software as the department, you already know before you come to us what it's going to say. You can fix it quickly, send it to us, and we can get it through quickly.

Wade: Understanding and addressing the impacts of climate change is obviously an important issue. It's a huge focus for the property and casualty industry, but there's a lot happening in the life and health insurance space as well.

Mais: When it comes to climate change and the life industry, yes, there's an awful lot going on. One is going back to the idea of automation and innovation and accelerated underwriting. That's something that we've been working on—and by we, I mean the NAIC. We've been working on regulatory guidelines for quite a while.

That got delayed a little bit because they didn't want to get out ahead of the AI principles. That bulletin is being adopted by the states, so that's done. I think the comments on the revised regulatory guidance will close tomorrow [July 26]. And in early August, the Accelerated Underwriting Working Group will be discussing it. We're hoping to get that moving forward as soon as possible.

Annuity suitability has been an interesting topic, especially with the moves from the Department of Labor, but I think we have a good story to tell there. We have our annuity suitability model, which basically says you're acting in the best interest of your consumers. As of earlier this year, 45 states had already put that into practice, and many of the rest are working on it.

This is how the national system of state-based regulation works best. We have a system that recognizes the need for consumer protection with the Annuity Suitability Model Law, but it also recognizes that consumer protection does not simply mean saying this is what you should not do. It also means allowing you to do the things that you should be doing. That means allowing you to provide the information to people who may not necessarily be able to get that information anywhere else. It's all part of the education process. It's part of the fine line we try to walk with annuity suitability.

Now, if you look at the Special Committee on Race and Insurance, the Life Sector has just put out a resource guide on what certain jurisdictions have done to reduce barriers. That's also available on the NAIC website. We're also working on an economic scenario generator—presuming all goes well, that should go into effect in January 2026. And there's Valuation Manual 22—we're looking at principles-based reserving for non-variable annuities.

> I do occasionally hear, "why aren't you promoting our products?" That really isn't what we do. We promote the idea of insurance, the understanding of insurance, and the proper use and sale of insurance.—Beth Dwyer

On the health side, we have asked our federal counterparts about what will happen to the subsidies under the Affordable Care Act. We have no control over that, but we need to have information ready for consumers.

Wade: Tomorrow we're going to have a panel on the NAIC's framework for insurer investment regulations. Director Dwyer, you were Chair of the Financial Condition (E) Committee last year—can you talk about how the committee decided to take on this issue?

Dwyer: When I took over E Committee from Commissioner White, they had been discussing these issues for a couple years—insurer investments, mainly in life insurance, driven by the low-interest rate environment and chasing higher returns; some would tell you because of private equity (PE) ownership. A number of different working groups and task forces under E Committee were looking at these and other issues related to insurer investments by life companies.

One of the first things I heard was, "all these groups are working separately, none of them know what the other is doing, and the commissioners have no idea what they're doing." None of that was really true, but it was true that we didn't have a single document—a single plan that says "here's our coordinated effort in this area, and this is how these different things match up."

That was the idea of the framework. Here's the overall issue, and here's how we're trying to address it. And again, it's a living document: a statement of our overall efforts. But the work is going to be done by the individual working groups.

We have a number of working groups working on very specific elements. But the idea of the framework was that the commissioners and industry understand that we have a comprehensive thought process to address the overall issue of life insurer investments.

Wade: Commissioner Mais, you talked earlier about DEI issues. The NAIC just hosted its fourth annual DEI conference in Kansas City. Can you tell us how that went?

Mais: As always, the DEI event was a stellar event. I have to give thanks to Evelyn Boswell, who heads DEI at the NAIC. She has done a tremendous job in making that a central part of the organization. Every national meeting, we have a DEI breakfast, and annually, we have a signature conference.

This year, we had almost 800 people at the conference. And these are not just regulators. These were largely industry people. People who wanted to work together to address the issue of DEI, who understand that, yes, it makes you feel good inside, but it's also good business. We need to expand the market. We need to reach more people. How do we do that?

At the NAIC, part of what we've been looking at is how we, as regulators, work. You can see the workforce is growing increasingly diverse. But if my experience is any guide, there are also people who do not understand how rewarding a career in insurance can be. They don't understand the social good that insurance is, and we need to keep reaching out to explain it to them. We need to make sure people understand the opportunities that are available.

And that is one reason the NAIC started the New Avenues to Insurance Careers (N.A.I.C.) Foundation, which is being supported by the NAIC in various states at this point. We're awarding scholarships. We're doing education projects. We're working to make sure that students have the necessary information to make decisions as they go forward.

Similarly, insurance departments all over have very strong internship programs and are seeking to expand those internship programs to ensure that we have a diverse group of people coming into this industry. Ensuring that we have stakeholders representing different groups helps us better understand the problems of these groups, and it helps the industry design better products.

The NAIC itself has expanded its internship program. In terms of DEI, I think that's the single most important thing we can do. The DEI conference provides us with a base to share information, but also just to meet each other, to make the connections that matter as we go forward.

Wade: The NAIC updated its strategic plan last year. Can you talk to us about the work that was done?

Mais: The NAIC goes in three-year cycles with its strategic plan. The previous strategic plan was coming to an end, and we needed to figure out what was most important to us as state insurance regulators.

This is when we came up with the idea of State Connected, back under the presidency of Director Dean Cameron. State Connected is a way to ensure that we, as regulators, not only have contact with the NAIC, but that horizontal contact with each other. Because the national system of state-based regulation works best when we're sharing best practices, when we're sharing technology, when we're sharing resources. And that's what State Connected is designed to do.

We're modernizing our technology, ensuring different ways of connectivity, including the NAIC app for members. We're providing the resources departments need, for instance, through the Center for Insurance Policy and Research. The whole concept is to give every state insurance regulator access to the same information so they have the resources they need going forward. It makes sense to centralize some of that support, and that's what State Connected is all about.

Wade: NOLHGA has been working with the NCIGF, our P&C counterpart, to engage in dialogues with regulators to discuss how we can work better to achieve our common goal of protecting consumers when there's a troubled company situation. At the NAIC Fall National Meeting last year, we had the opportunity to conduct a large tabletop with lots of participants. And then earlier this year, we had another tabletop at the Commissioners' Conference. Can you talk to us about what you thought of the exercises and your experiences?

Dwyer: When I was in private practice, I actually was involved in rehabs and insolvencies in California, so I have a slight background. But I can tell you, many regulators—maybe even most—don't have a background in receiverships. And I thought the tabletop was outstanding. Patrick from my office was also at it; he does not have a background in receiverships, and he was talking about how valuable it was.

I thought it was just great. It brought together people with different levels of knowledge about what the guaranty funds do, and it walked them through what a department does when a company starts showing problems, through the rehab process, through insolvency. I couldn't say more wonderful things about the way you set it up, and I hope we get to do it a lot more in the future.

We have to keep in mind this is not a stagnant group. It's constantly changing. So we might know something, but the person who just came in doesn't. And the more knowledge and understanding we have of how the system works, the better.

> "You want to protect consumers. You want to get consumers the products as affordably as possible. That means we have to find ways to take costs out of the system, and AI is one way to do that.—Andrew Mais"

Mais: I think the biggest compliment I can give is the same one that Beth gave—we'd like to do it again.

At our table, one commissioner had been through an insolvency, had really been involved. Nobody else had. We were being led, step by step, through what we had to go through, and it was an eye opener. It certainly brought a new level of understanding. Usually you hand it over to the Special Deputy Rehabilitator, you get a report every week or two, and that's how things go.

This gave you so much insight into the process—the stuff you would never know if you weren't a part of it. I know we've asked if you could hold a similar event at the next Northeast Zone meeting, because as Beth said, membership changes, and we think it's important to be able to do that again. And I've asked if we could have an event at the national level, probably for the summit next year. I'm not sure of the scope—maybe a little larger than the tabletop.

Wade: We're pleased to hear how successful the tabletops were, and that we'll have the opportunity to do more sessions. But is there more we could be doing?

Dwyer: I think any educational opportunity is important. We are familiar with the guaranty system, but it's a really complicated construct. If you just walked in here and didn't know the first thing about it, it's not that easy to understand. Every state is a little different, or can be. We all have mostly the same protections, but depending upon the product, maybe different levels of coverage.

We had a P&C insolvency in Rhode Island, and the biggest complaint was the $50 charge that consumers got for their premium. That's really a lack of understanding of how much protection you get because of the system. So are there ways to generate content that consumers could understand in an insolvency? It is shocking to consumers when they get a notice that there is an insolvency. They don't quite know what that means. Are there some consumer communications that could explain it better?

As Commissioner Mais just said, at the NAIC, we're trying to do better with our communications. There is so much misunderstanding of insurance. And I think that's greatly attributable to the fact that we don't know anything about this when we're kids. We don't get any education. We understand what a bank account is. I had a little account. I went down, I put my $5 in when I babysat. You didn't have anything like that with insurance. You didn't learn it. So how can we communicate better to a consumer when an insolvency occurs?

Mais: The one thing I would add to that is from a different perch, and that's looking at it internationally. We've tried to explain to our friends overseas on so many occasions what our system is and how it works. It doesn't necessarily sink in. We seem to go through the same thing year after year after year. Part of that is due to the fact that the G20's Financial Stability Board, which tasked IAIS with mitigating systemic risk, is largely bank-driven. They look at things one way.

If you look at our last IMF Financial Sector Assessment Program, or FSAP, they're asking, "where's your resolution program?" They don't understand our resolution planning. We need to keep helping them understand that, as with much else, there are different systems. Our system has evolved to suit the needs of the consumers we protect, and this is what's right for us. Otherwise, we're going to face, as we did with ComFrame, pressure to mandate that companies have plans they don't need.

> We've got to be careful how we draft these models. We need to keep our mandatory requirements a little bit more general so that companies can utilize the most modern technology that can assist consumers.—Beth Dwyer

> If my experience is any guide, there are also people who do not understand how rewarding a career in insurance can be. They don't understand the social good that insurance is, and we need to keep reaching out to explain it to them. We need to make sure people understand the opportunities that are available.—Andrew Mais

Wade: Switching focus a little, Beth, you are the state regulator representative on the Financial Stability Oversight Council (FSOC). What are the main risks in the insurance sector from the FSOC's perspective?

Dwyer: I think it's what Commissioner Mais just said. Financial stability in this country is very bank-focused. Insurance is very important, but some of the members of FSOC, being banking people, don't have the same knowledge regarding insurance regulation and why it works. It's different. It's not a federal standard. But it is an accredited financial standard, so we all have the same financial standards. They're simply applied by our states.

How do we explain that to them, without getting that international kind of reply: "that's not really a resolution plan because it's not what I'm familiar with." It might not be what you're familiar with, but that doesn't mean it's not a good way of handling this. And applying standards developed for a different industry will likely result in inefficiencies, holes in the system, and increased costs—none of which work for consumers.

So I look at my job as providing that information. And we're very lucky that President Biden has appointed Gordon Ito from Hawaii as the FSOC Independent Member with Insurance Expertise. I've known Gordon for 25 years. He was general counsel before he was commissioner. It's the first appointment of a former insurance commissioner, and I think it's a great appointment. I hope I'm not overreading, but to me that shows that the federal government is interested in what we do, how we do it, and why our regulation is the appropriate regulation for the insurance sector.

Audience Question: Commissioner Mais, you talked about the retirement protection gap. Unless there is going to be a massive expansion of the social safety net, the private sector will have to be involved in any solution. I'm curious how you, as regulators, are able to act in partnership with the private sector in seeking those gap solutions, knowing that your day job is also to be the solvency and conduct regulator for the industry. Where are those opportunities for partnership, and how do you approach those as regulators?

Mais: From my point of view, there is no conflict between wanting that gap closed and working with industry. We're regulators, and part of regulation is ensuring that consumers feel protected, that they feel safe, and that they're able to go forward. It doesn't always work, but we do the best we can. And this is a business that's built on confidence. We've got to keep working on that.

One reason we say that the insurance capital standard (ICS), as it was created by the IAIS, is not fit for purpose in the United States is precisely because it adds incredible capital charges to those products that we need most. Those charges are unnecessary, they're excessive, and they're way too volatile. There is too much cyclicality there.

So that's part of the reason we've been fighting so hard for the aggregation method (AM). We want to make sure that companies have the ability to profitably deliver these products—which consumers desperately need—to everyone. They may not need them in Europe, but we need them in the United States.

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Dwyer: I look at our job as, we review the personal lines products that your company is offering, and we look at them to make sure they have value to a consumer. There's an entire industry that's selling the product. Every consumer is different, and different products can work differently for them. But our job is to make sure those products have value to a consumer and, in the issue of suitability, to make sure that people are following the rules and providing the information that consumers need to make decisions.

We're not advocating for your product. We're not going to be out there saying, "hey, this is a great product—buy this tomorrow." We're saying to consumers, "this is what insurance can do for you, not what it will do for you. I don't know your situation. But here's how an insurance product could work." This is what an annuity is. If you have a set amount, you want another income stream, this is how it works. This is how you annuitize.

One of the things that troubles us sometimes is the lack of annuitization on annuities. People are looking at them more as an investment vehicle rather than actually annuitizing and understanding the income stream possibilities of the product.

It's industry's job to innovate and come up with the products, and it's our job to make sure those products have value for consumers. And, as Commissioner Mais says, to make sure we don't burden the product with excess charges that aren't necessary. By the way, we are united on the ICS, and we would not be united if we felt that a capital standard was needed. We absolutely would not. We're not here to say that there should be solvency concerns in any of these products. Our position is that it should be the appropriate amount, but we think the aggregation method allows companies to continue to offer products that we think are needed by consumers.

That's kind of the yin and the yang. I do occasionally hear, "why aren't you promoting our products?" That really isn't what we do. We promote the idea of insurance, the understanding of insurance, and the proper use and sale of insurance. ✯

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