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Resolution in the Spotlight

Regulators here and abroad have turned their attention to the best way to resolve the failure of large insurers—and what role the guaranty system should play

The **NOLHGA Journal** *recently caught up with Sara Powell and Scott Kosnoff (Partners with the Faegre Baker Daniels law firm), who represent the guaranty system on public policy matters in Washington and internationally. They were kind enough to update us on the regulatory scene.*

NOLHGA Journal: *We spoke last June about the future of insurance regulation and the regulatory changes that have the potential to affect the guaranty system the most. What's happened since then?*

Powell: A lot! As we said a year ago, it used to be that insurance regulation belonged to the states, with limited involvement by the federal government and no significant interaction with international policymakers. That's all changed, and the past year has seen important insurance regulatory developments in the United States involving the Financial Stability Oversight Council, the Federal Reserve Board, the FDIC, the Federal Insurance Office, and even Congress. Internationally, most of the action has been with the Financial Stability Board and the International Association of Insurance Supervisors (IAIS).

Kosnoff: The intense focus (both here and abroad) on group supervision, enhanced capital standards, and living wills has continued, and the international standard-setting bodies have finally turned their attention to resolution matters. In addition, the impact of international matters on what we're seeing here at home has become even more pronounced.

NOLHGA Journal: *Let's start with the Financial Stability Oversight Council (FSOC). MetLife's recent win over FSOC at the district court level was an important step in the company's effort to shed its systemically important designation.*

Kosnoff: It sure was. On March 30, the United States District Court for the District of Columbia overturned FSOC's determination that MetLife is a systemically important financial institution (SIFI) whose failure could endanger the economy. The court said that FSOC's determination was deficient because (a) FSOC failed to include an assessment of MetLife's financial vulnerability, as required by its own published guidance; (b) FSOC failed to quantify the potential harm to the financial system that would result from a MetLife failure, also as required by FSOC's own guidance; and (c) FSOC focused exclusively on the presumed benefits of the designation without considering the costs to MetLife. FSOC wasted no time in appealing the court's decision, which Treasury Secretary Lew said "imposed new requirements that Congress never enacted and contradicted key policy lessons from the financial crisis."

NOLHGA Journal: *Can you put this in perspective? What does the court's decision mean?*

Kosnoff: It's certainly an important victory for MetLife—and a blow to FSOC—but we'll have to wait to see how the appeal and any subsequent proceedings turn out. This case is a long way from over.

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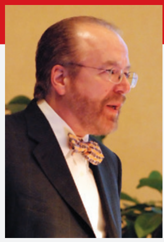

Insurer Resolution Core Principles

As readers of the *Journal* know, regulators around the world increasingly have been focusing on how best to regulate insurance companies and groups to protect their solvency. The interview with Scott Kosnoff and Sara Powell of Faegre Baker Daniels elsewhere in this issue does an excellent job of recapping the current state of play.

Much of this activity is in response to the 2008 financial crisis, and at least part of it relates to coordinated efforts to prevent financial institutions from posing threats to the financial system (locally or globally).

The United States has been a leader in international efforts to prevent another systemic financial crisis, and U.S. representatives have made—at least to some degree—a commitment to harmonize U.S. regulatory mechanisms with emerging international standards, particularly where regulated institutions are deemed to be of global systemic importance or are major players in a number of countries. The hard reality, though, is that fundamental questions dog the overall effort.

For example, U.S. state insurance regulators and industry representatives disagree with international regulators (and perhaps with some U.S. federal regulators) about the extent to which the insurance sector poses systemic financial risks. If the industry poses no such risks, the justifications are weak for enhanced regulatory review, higher capital standards, extensive resolution and recovery planning ("living wills"), and the like.

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Be all that as it may, international regulatory bodies—especially the Financial Stability Board (FSB) and International Association of Insurance Supervisors (IAIS)—have been hard at work promulgating statements of "key attributes" of effective financial regulation, and even U.S. state insurance regulators are making some efforts to align U.S. regulatory practices with some international standards.

Defining Best Practices

As noted in the Kosnoff/Powell interview, the FSB and IAIS more recently have focused on how international insurer resolutions might best be handled—both in terms of the design and administration of receivership mechanisms and the structure and operation of safety net programs (or, as they are known in other countries, "policyholder protection schemes"). The scope of the FSB and IAIS concerns are not entirely clear; they will certainly focus on resolution approaches to "global systemically important insurers" (G-SIIs) and (perhaps in different ways) to "internationally active insurance groups" (IAIGs), but at this point it is unclear whether their recommendations will extend to smaller and more local entities.

The IAIS has requested observer input on resolution best practices. NOLHGA and our friends at the NCIGF have collaborated closely with the International Forum of Insurance Guarantee Schemes (IFIGS)—which was specifically asked for comments by the IAIS—in an effort to assist the IAIS with its analysis of resolution practices and any standards that may be developed.

It is unclear to what extent any IAIS promulgations on insurer resolutions would be followed in the United States, but potential problems would best be avoided if the IAIS (and the FSB, to the extent of its direct involvement) were to reach appropriate conclusions in the first place.

A U.S. perspective on these questions merits serious consideration for several reasons. Not only is the United States the leading insurance marketplace in the world; it also has the most experienced and best-developed insurance regulatory system in the world. Specifically, the United States has the most experience with insurer insolvencies and safety net mechanisms. The memberships of NOLHGA and the NCIGF, in particular, have been involved in every significant U.S. insurer receivership, with the exception of a few special-market entities for which consumer safety net protections do not apply. As Chuck LaShelle used to say, authors of expensive cookbooks can benefit by talking with people who have actually baked a few cakes.

Such input is also called for because of a lack of agreement on the fundamental goals of, and basic approaches to, insurance entity resolutions.

For example, regulators in some jurisdictions operate from the premise that insurers ought never to be allowed to fail, period; those jurisdictions view the purpose of safety net mechanisms primarily to involve "bailing out" entities that are unable to succeed financially on their own. Another perspective is that insurer commitments to non-policy creditors are as important as—or in some cases, more important than—commitments to insurance policyholders. Moreover, some jurisdictions value process speed and administrative efficiency over stakeholder due process rights, and they accordingly truncate or eliminate stakeholder opportunities to appear and be heard in judicial or administrative processes controlling a resolution. Additionally, some jurisdictions view policyholder protection schemes as nothing more than, in effect, checkbooks that can fund obligations owed by failed insurers—in some cases, only after lengthy and ineffective efforts to save the insurer have dissipated most or all of the insurer's assets (thus significantly increasing costs to the policyholder protection schemes).

The U.S. Experience

The U.S. perspectives on these and related issues are different, and they are drawn from the experience of many insurer insolvencies over the past four decades and more. For one thing, the basic U.S. regulatory philosophy (in insurance and elsewhere) is that heroic and expensive measures ought not to be pursued for the purpose of propping up or bailing out uncompetitive or poorly managed insurers. To be sure, U.S. financial regulation seeks (generally successfully) to minimize the number of failures and, when they do occur, to mitigate their impact by maximizing assets available for a resolution. In the end, though, the U.S. philosophy is that society is better off when bad firms fail and their policyholders are permitted to move to healthier and more competitive insurers.

In addition, the U.S. insurance regulatory philosophy has always emphasized the protection of insurer obligations to policyholders above obligations to general and subordinated creditors and equity interests. In particular, the U.S. system avoids shifting to policyholders the costs of fulfilling the expectations of debtor and equity interests. Our system also values highly the opportunity of stakeholders to present and be heard on their material interests in a resolution process.

Moreover, in the United States, the guaranty systems have come to be central actors, along with regulators and receivers, in the design and execution of most insurer resolutions. As the NAIC formally recognized in a white paper in 2004[1], regulators, receivers, and the guaranty associations are key stakeholders in, and contributors to, successful resolutions, and each party has information, experience, and knowledge that can and should be used to maximize the likelihood of success.

For all those reasons and more, NOLHGA and the NCIGF have worked with IFIGS to share with the IAIS and FSB the lessons that have been learned through the considerable experience of the U.S. system.

Our suggestions are humbly offered, in that it is not the goal of NOLHGA or the NCIGF to seek to impose U.S. approaches on other countries. We know that the markets for certain types of insurance are different in other countries, and the forms of organization of some large overseas insurance groups also differ from those of major U.S.-based insurer groups. Those differences may well justify approaches to regulation and resolution in other jurisdictions that vary from those that have been developed through the U.S. experience.

But, by the same token, we have wished also to note that different approaches used, perhaps appropriately, in other jurisdictions may not square well with fundamental values and principles that are long settled in the U.S. resolution context. Put another way, if substantial unanimity cannot be reached on the validity of basic goals and approaches, the IAIS and FSB ought to avoid pursuing a "one-size-fits-all" prescriptive approach to how resolutions should be pursued.

Core Principles

In that spirit, NOLHGA and NCIGF have worked together through IFIGS—and in their own right—to make the case for the following core principles:

1. Policyholder protection schemes are more than a source of funds. They are an integral part of the insurance resolution process and can be helpful with resolution planning, including in connection with crisis management groups and other coordination efforts.
2. Resolution standards for non–G-SIIs should focus on policyholder protection, as IAIGs and other insurance groups are (by definition) not systemically important. The standards should be flexible rather than prescriptive; they should recognize that different approaches can achieve the same desired outcomes.
3. The resolution standards should call for prompt corrective action for insurers in hazardous financial condition. Timely regulatory intervention can keep a bad situation from getting worse. It can protect insurance consumers and the public by preventing a failing insurer's assets from being substantially dissipated, allowing them instead to be effectively safeguarded and marshaled in the company's receivership.
4. Even when prompt correction action occurs, policyholders and other stakeholders of the failed company can still be harmed significantly by ineffective resolution. Effective resolution regimes should require professional execution of a resolution strategy that marshals the assets of the failed company in a cost-effective manner and maximizes their prompt application to proven creditors' claims as directed by law.

Much remains to be done on the resolution front by IAIS and other international actors, and NOLHGA and NCIGF will stay involved in the debate to protect the interests of their memberships. ✯

Peter G. Gallanis is President of NOLHGA.

End Note

1. National Association of Insurance Commissioners, Receivership and Insolvency (E) Task Force, *Communication and Coordination Among Regulators, Receivers, and Guaranty Associations: An Approach to a National State Based System*, (2004), http://www.naic.org/store/free/CAC-OP.pdf.

Capital Connections

The 2016 Legal Seminar heads to Washington, D.C., for an up-close look at federal regulation and other topics

If there's one thing Washington, D.C., needs more of, it's lawyers, and NOLHGA's Legal Seminar promises to bring 200 or so legal professionals to the Nation's Capital in July. There, attendees will find a city with constant reminders of the glories of the past (monuments, museums, and all of the city's professional sports teams) and a Seminar program focused squarely on the future. While the finishing touches are still being put on the final program, the preliminary schedule features the Seminar's traditional panel discussions on the major issues facing the guaranty system and insurance industry, including:

- Regulatory reform
- The Department of Labor's fiduciary rule
- The ever-changing health insurance marketplace
- International issues
- The appellate process
- Taxes
- Captives
- Cybersecurity
- Ethics

Seminar Snapshot

NOLHGA's 24th Legal Seminar

Where:	The Mayflower Hotel, Washington, D.C.
When:	July 21–22 (MPC meeting on July 20)
Program:	The Seminar will run all day on Thursday, July 21, and will end at noon on Friday the 22nd.
Website:	www.nolhga.com/2016LegalSeminar.cfm
Registration:	$850
Guest Registration:	$50 for July 20 Welcome Reception $75 for July 21 Luncheon

24th nolhga® legal seminar
July 21–22, 2016 | Washington, DC

Frank Talk

Barney Frank, who served as a U.S. Congressman from 1981–2013 and was coauthor of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, will speak at NOLHGA's 2016 Legal Seminar in a discussion with NOLHGA President Peter Gallanis.

Rep. Frank chaired the House Financial Services Committee from 2007–2011, where he was instrumental in crafting the short-term $700 billion rescue plan in response to the mortgage crisis and adopting a sweeping set of financial regulations aimed at preventing a recurrence. He is the author of two books—*Speaking Frankly (1992)* and *Frank: From the Great Society to Same Sex Marriage* (2015)—and is the subject of the 2014 documentary *Compared to What: The Improbable Journey of Barney Frank*.

Other confirmed speakers include:

- **Patricia M.C. Brown**: President, Johns Hopkins Health Care LLC
- **Scott Campion**: Partner, Oliver Wyman
- **A. Thomas Finnell Jr.:** Deputy Director, Regulatory Policy, Federal Insurance Office
- **Michael S. Frisch**: Professor, Georgetown Law Center
- **Patrick Hughes**: Partner, Faegre Baker Daniels
- **Eric J. Magnuson**: Partner, Robins Kaplan LLP
- **Garin Pace**: Head of Underwriting Excellence—Cyber, AIG
- **William R. Pauls**: Partner, Sutherland Asbill & Brennan
- **Leigh Ann Pusey**: President & CEO, American Insurance Association
- **Kim G. Quarles**: Senior Vice President, Willis Towers Watson
- **Kevin J. Rasch**: Vice President & Assistant General Counsel, MassMutual Financial Group
- **Eugene Scalia**: Partner, Gibson, Dunn & Crutcher LLP
- **Dana Sheppard**: Associate Commissioner, Risk Finance Bureau, District of Columbia Department of Insurance, Securities and Banking
- **Phillip E. Stano**: Partner, Sutherland Asbill & Brennan
- **Stephen C. Taylor**: Commissioner, District of Columbia Department of Insurance, Securities and Banking
- **Susan Voss**: Vice President & General Counsel, American Enterprise Group

We are also thrilled that former Rep. Barney Frank will be speaking at the Seminar (see "Frank Talk"). In addition, Eugene Scalia (a partner with Gibson, Dunn & Crutcher LLP), who was lead counsel on MetLife's appeal of its SIFI designation by the Financial Stability Oversight Council, will also speak at the Seminar.

But that's not all the 2016 Legal Seminar has to offer. In addition to the outstanding speaker program, the Seminar will feature a welcome reception on July 20, a luncheon (with guest speaker) on July 21, and an MPC meeting for guaranty association members on July 19–20. See "Seminar Snapshot" for registration and guest registration fees (there is no fee to attend the MPC meeting).

Fortunately for our guests, the Mayflower Hotel—site of this year's Seminar—is located in the heart of the District of Columbia, just a few blocks from Capitol Hill and easy walking (or Uber) distance

["Capital Connections" continues on page 8]

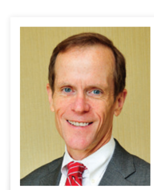
Join Us in Washington!

What's hotter than Washington, D.C., in July? NOLHGA's 24th Legal Seminar!

The 24th NOLHGA Legal Seminar will be held on July 21–22 at the Mayflower Hotel in Washington, D.C. In addition to the outstanding Seminar we have planned for you, you will have the opportunity to spend some quality time in central Washington, our seat of government and one of this country's greatest tourist destinations.

NOLHGA's Legal Seminar has become recognized for providing top-tier speakers on topics of both general and specific interests. The Legal Seminar Planning Committee is putting together a first-rate program that covers timely topics such as regulatory reform, health-care issues, international developments, and many other areas of interest for guaranty associations and the insurance industry. Featured on the first day's program is a panel on the Department of Labor's new fiduciary rule, a critical topic for those in the life insurance industry. The second day will feature an interview with Barney Frank, formerly the ranking member of the House Financial Services Committee.

We are very pleased with this year's venue, the luxurious and historic Mayflower Hotel—the prime destination for generations of politicians, diplomats, and celebrities. It's located in the heart of our Nation's Capital—a vibrant city awash in political, historical, and cultural destinations. Then, of course, there's that famous Washington summertime weather that visitors have been commenting on for over 200 years.



I hope you'll join us.

Tad Rhodes
NOLHGA Legal Seminar
Planning Committee Chair

["Resolution in the Spotlight" continues from page 1]

You Can't Tell the Players…

ComFrame	Common Framework for the Supervision of Internationally Active Insurance Groups
FIO	Federal Insurance Office
FSB	Financial Stability Board
FSOC	Financial Stability Oversight Council
G-SII	Global Systemically Important Insurer
IAIG	Internationally Active Insurance Group
IAIS	International Association of Insurance Supervisors
iCBCM	The FSB's Cross Border Crisis Management Group for Insurers
ICPs	The IAIS's Insurance Core Principles
IFIGS	International Forum of Insurance Guarantee Schemes
LAC	Loss Absorbing Capacity
ReWG	The IAIS's Resolution Working Group
SIFI	Systemically Important Financial Institution
SPOE	The FDIC's "single point of entry" strategy

NOLHGA Journal: *Remind us, what are the consequences if an insurance company is designated as a SIFI by FSOC?*

Powell: Among other things, a systemically important insurer is subject to heightened prudential regulation by the Federal Reserve Board, which would require the insurer to annually submit recovery and resolution plans to the Fed and likely hold greater levels of capital. The FDIC may also have a role to play if the insurer fails.

NOLHGA Journal: *What's new at the Federal Reserve Board? When will we see capital standards for insurance SIFIs?*

Kosnoff: The Federal Reserve continues to play a significant role in insurance matters because it is the consolidated prudential regulator of SIFIs here in the United States and has leadership positions at the Financial Stability Board and the IAIS. Tom Sullivan—who joined the Fed in 2014 as a senior advisor on insurance—is assembling a growing team of insurance experts, and the Fed now has personnel dedicated to insurance resolution issues.

Powell: In a speech on May 20 at the NAIC's International Insurance Forum, Governor Daniel Tarullo—a member of the Fed's Board of Governors—laid out the Fed's current thinking on capital standards for insurance companies. That thinking was described more formally in an advance notice of proposed rulemaking, which was released on June 3. It appears that Tarullo's announcement was as much a surprise to the state and international regulators in the audience as it was to the industry attendees.

Kosnoff: Tarullo explained that, from the Fed's perspective, the Insurance Capital Standard being developed by the IAIS is "insufficiently developed" and, therefore, cannot serve as the basis for the Fed's own capital standards. Also, the Basic Capital Requirement (BCR) adopted by the IAIS in 2014 is "somewhat provisional" and relies on "a method of valuation not in use by U.S. companies and regulators." As a result, it does not meet the Fed's "need for an approach that can—as a practical matter—be developed and implemented in the relatively near term."

Powell: Instead, the Fed will likely propose a building block approach (BBA) to capital requirements for insurance companies that own a bank or thrift. According to Tarullo, "the BBA would aggregate capital resources and capital requirements across the different legal entities in the group to calculate combined, group-level capital resources and requirements. A firm's aggregate capital requirements generally would be the sum of the capital requirements at each subsidiary."

Kosnoff: For systemically important insurers (AIG and Prudential), the Fed is likely to propose a consolidated approach (CA) to capital requirements. Tarullo noted that, as with the Fed's capital requirements for bank holding companies, "the CA would categorize all of the consolidated insurance group's assets and insurance liabilities into risk segments, apply risk factors to the amounts in each segment, and then set a minimum ratio of required capital comparing the consolidated capital requirements to the group's consolidated capital resources. However, the CA would use risk weights or risk factors that are more appropriate for the longer-term nature of most insurance liabilities."

Powell: In other Fed news, on April 13, the Fed and the FDIC announced their joint determination that resolution plans submitted by five of the nation's largest banks were not credible, giving the banks until October 1 to remedy the deficiencies identified by the agencies.

NOLHGA Journal: *You've mentioned the FDIC a couple times. What else can you tell us about their activities related to insurance?*

Powell: The FDIC continues to consider how it could be helpful if an insurer SIFI were to fail. While the Dodd-Frank Act makes clear that insurance company rehabilitations and liquidations are to be handled under state law, the FDIC might still have a role to play, especially under its "single point of entry" (SPOE) strategy. The SPOE strategy contemplates that a SIFI would be put into a Title II receivership at the holding company level, while all solvent operating subsidiaries would be moved under a bridge financial company and remain in operation.

Kosnoff: FDIC staff presented the agency's current thinking on the SPOE strategy at a meeting of the FDIC's Systemic Resolution Advisory Committee on April

14. The presentation highlighted certain ways the strategy has evolved, but it did not get into whether SPOE makes sense in the insurance context. Our sense is that the FDIC has been waiting to see how the Fed's capital standards shake out, as the SPOE strategy requires that there be substantial unsecured debt at the holding company level. As we discussed last year, capital standards and resolution strategies are pretty closely linked. We'll soon see if the FDIC starts to more seriously consider insurance SIFI resolution now that we're starting to get information from the Fed on capital standards.

NOLHGA Journal: *Let's talk about Congress for a minute. They passed the Policyholder Protection Act!*

Kosnoff: Right! Getting the Policyholder Protection Act passed was a major legislative initiative of the NAIC, and NOLHGA and the NCIGF provided technical support by analyzing various iterations of the legislative language. The Act limits the Federal Reserve Board's ability to use insurance company assets as a source of strength for affiliated savings and loan associations. It also restricts the FDIC's ability to take a lien on the assets of an insurance company or its subsidiaries if the FDIC determines (after consulting with the insurer's primary state regulator) that the lien would unduly impede or delay the liquidation or rehabilitation of the insurance company or the recovery by its policyholders.

NOLHGA Journal: *What about the Federal Insurance Office (FIO)? What can you tell us about the Covered Agreement process on which Director McRaith and the FIO have been so focused?*

Powell: On November 20, 2015, FIO and the United States Trade Representative jointly notified four key congressional committees that they were formally initiating negotiations with the European Union to achieve a "Covered Agreement" pursuant to the Dodd-Frank Act. This is just step one in the Covered Agreement process. Once complete, the Covered Agreement would establish standards on collateral requirements for reinsurance, insurance group supervision, and confidentiality.

The driving reason for the Covered Agreement is to achieve U.S. "equivalence" with the EU under Solvency II in the areas of reinsurance and group supervision. Without equivalence, U.S. insurers doing business in the EU could be required to comply with Solvency II requirements. Solvency II implementation started on January 1, 2016, and it remains unclear whether the Covered Agreement process will pave the way for some form of provisional equivalence or forbearance.

Kosnoff: For the NAIC and state regulators, the decision to move forward with Covered Agreement negotiations was a big deal because any resulting agreement would preempt conflicting state law. FIO has promised that state regulators will be involved in the Covered Agreement process, but it's unclear what level of involvement they will have.

NOLHGA Journal: *Speaking of the Europeans, which international standard-setting organizations are working on resolution matters?*

Kosnoff: Both the Financial Stability Board (FSB) and the IAIS have subgroups focused on insurance resolution matters.

At the FSB, the Cross Border Crisis Management Group for Insurers (iCBCM) is thinking through resolution strategies that will apply to global systemically important insurers (G-SIIs). The U.S. representatives to the iCBCM are the Fed, the FDIC, and Treasury (specifically, FIO).

The IAIS has formed the Resolution Working Group (ReWG), which focuses on resolution strategies applicable to internationally active insurance groups (IAIGs). The U.S. representatives are from the Fed, FIO, and state insurance regulators. Alex Hart of FIO serves as Vice Chair.

NOLHGA JOURNAL: *What are those groups working on?*

Powell: In November 2015, the FSB published a consultation paper entitled *Developing Effective Resolution Strategies and Plans for Systemically Important Insurers*. The paper seeks to provide guidance to supervisors and resolution authorities on developing resolution strategies for G-SIIs. NOLHGA and the NCIGF submitted a joint comment on the paper, and our key points (concerning the guaranty system's critical role in resolution matters) were echoed by the NAIC and three insurance trade associations. Following submission of the comment, NOLHGA and the NCIGF were invited by the FSB to participate in a small, closed-door meeting regarding the consultation paper and related resolution topics. The meeting took place in Basel in January and gave the guaranty system a rare opportunity to have face-to-face interaction with international (and domestic) policymakers. The final version of the consultation paper was released on June 6 and incorporated a number of our suggestions.

NOLHGA Journal: *What about the IAIS?*

Powell: In January, the IAIS ReWG held its first public stakeholder meeting. As part of the presentation, the IAIS representatives outlined ReWG's three primary work streams.

First, ReWG is revising the resolution-related insurance core principles (ICPs)—namely ICPs 12 and 26. The ICPs are intended to provide a globally accepted framework for the supervision of the insurance sector and apply to all insurance companies. The revised ICPs were originally expected to be out for public comment this summer, but we're hearing that timing might slip a bit.

Second, ReWG is drafting the resolution component (Module 3, Element 3) of the Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame). ComFrame is a set of international supervisory requirements focusing on the effective group-wide supervision of IAIGs. The next consultation draft of ComFrame is expected to be published this summer and hopefully will include the newly drafted resolution component.

Kosnoff: Third, ReWG is considering an important question that the FSB has asked the IAIS: whether G-SIIs should be subject to Loss Absorbing Capacity (LAC) requirements. The FSB requires global systemically important banks to hold LAC—capital that will be available in resolution to implement an orderly resolution. The IAIS has yet to opine on whether G-SIIs should also be required to hold LAC. There is no public timeline for this decision, but LAC was part of the discussion at the ReWG stakeholder meeting in January. The insurance industry representatives were uniformly opposed to LAC.

NOLHGA Journal: *Has ReWG said anything specifically about policyholder protection schemes?*

Kosnoff: ReWG has conducted a survey on the existence, structure, and functions of policyholder protection schemes in nine countries, including the United States. That survey was made available only to supervisors, not the public.

Additionally, at the January stakeholder meeting, the IAIS asked a representative of the International Forum of Insurance Guarantee Schemes (IFIGS) to speak on a panel regarding LAC. The IFIGS panelist emphasized two points, with which we agree: first, a policyholder protection scheme's role is to protect policyholders, not bail out insurers or serve as a source of strength; and second, supervisors and resolution authorities should collaborate with policyholder protection schemes to take advantage of their resolution experience.

NOLHGA JOURNAL: *What exactly is IFIGS? Are we involved?*

Powell: IFIGS was formed by a group of policyholder protection schemes (also known as insurance guarantee schemes) from around the world that are interested in sharing their experiences in providing policyholder protection. Recently, IFIGS formed a small working group to develop a coordinated response to the resolution-related guidance that will be released by the FSB and the IAIS in the coming months. NOLHGA and the NCIGF are members of IFIGS and sit on that working group, which recently proposed core principles for resolutions for the IFIGS members to consider.

NOLHGA JOURNAL: *You mentioned the growing impact of international matters on domestic policy. Any recent examples?*

Kosnoff: Yes. The NAIC's work on a group capital calculation is the latest example of international matters coming home to roost domestically. Just a few years ago, state insurance regulators were vowing to fight a group capital standard until the bitter end. Well, that was then, and this is now.

NOLHGA JOURNAL: *What should we keep an eye on as we look ahead over the next few weeks and months?*

Powell: The focus on insurance resolution matters, by regulators and companies, will only continue to increase. We eagerly await the release of the IAIS' resolution-related policy measures, which will be published this summer at the earliest. This will give us a sense of the resolution-focused requirements insurance companies will be required to fulfill. We would not be shocked if resolution planning requirements were expanded beyond G-SIIs to include IAIGs and maybe even other insurers. Even if that resolution planning is not as onerous as what the G-SIIs have to go through, it would still be a significant change for the industry.

Kosnoff: As resolution matters attract more attention, so may policyholder protection schemes, including the U.S. guaranty system. That's why we continue to engage with regulators and policymakers at the state, federal, and international levels—so that that the people making decisions about resolution policy can have a solid understanding of how the U.S. guaranty system has protected policyholders for over four decades. ✯

["Capital Connections" continues from page 5]

from the city's monuments, museums, and other attractions. Attendees interested in our national pastime (baseball, not suing people) will be happy to learn that the Washington Nationals are hosting the Los Angeles Dodgers and San Diego Padres during the MPC meeting and Legal Seminar.

A great speaker program, wonderful host city, and the promise of endless Trump/Clinton debates (we're talking about Washington, after all) make NOLHGA's 2016 Legal Seminar a must for anyone interested in the latest legal issues in the insolvency arena. If you haven't registered yet, please visit the Seminar website (www.nolhga.com/2016LegalSeminar.cfm), where you can also book your hotel room and obtain more information about the meeting. If you have any questions about the Legal Seminar, please contact Meg Melusen at mmelusen@nolhga.com. ✯

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