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## No More Blinders

**The NAIC begins to acknowledge federal action is inevitable, and they want a seat at the table.**

By Scott Sinder and John Fielding

The insurance commissioners met again—in beautiful and expensive San Francisco again—and talked producer licensing, surplus lines, and consumer protection. Again. The most interesting action at the NAIC's Summer National Meeting in June occurred behind closed doors. The issue was Congress and how the NAIC should engage the federal government on regulatory reform issues.

There was no public discussion or announcement of an NAIC congressional "plan" or strategy. While there was plenty of gossip, we don't know what happened in the private commissioner meetings, so evidence of the regulators' intentions will have to be gleaned through their actions.

This is an important issue for Council members because, clearly, when the NAIC acts—or doesn't—it has an impact on the viability of legislation. At the very least, regulatory skepticism can cause Congress to delay action on bills that otherwise might move more quickly.

In the past few months, the NAIC has shown a new willingness to work with Congress on regulatory reform issues—in contrast to the "just say no" approach of the past. Recently, regulators have even acknowledged the benefits of congressional action and have begun engaging Congress on some issues. We hope all the talk in San Francisco spurs on those efforts. The gossip was that the regulators were divided on this approach. I hope not. Constructive engagement by commissioners with Congress can be good for them and good for the industry that they hope to continue regulating.

I don't believe we will ever see state regulators support some of the issues The Council champions on Capitol Hill. They will never look kindly on the optional federal charter proposal. But the commissioners know they need help to get all of the states on board for reform efforts that they do support. That reform, whether self-initiated or through congressional fiat, is essential if the states want to retain regulatory authority over insurance.

Currently, the focus is on two bills: The Non-admitted and Reinsurance Reform Act (the NRRA) and the so-called "NARAB II" bill.

NRRA would streamline the regulatory process for surplus lines and reinsurance. The regulators have indicated that they generally support the surplus lines provisions of the bill. They know surplus lines regulation is a mess and that the self-interest of individual states has prevented the regulators from agreeing to streamline the process. They see the NRRA as a way to force the states to get their act together, realizing, no doubt, that, unless they do, the calls for federal regulation will continue to grow louder. To that end, the NAIC is currently working with NRRA Senate sponsors to make changes that commissioners believe are necessary to maintain their consumer protection authority. The Council much prefers this constructive approach to their defensive approach of years past.

The same logic applies to the NARAB II. Although regulators don't support the bill, they support the core concept of uniform producer licensing requirements in every state. They appear to be getting more comfortable with the notion that they will need congressional action to get there. Like surplus lines, there is no way to get comprehensive licensure reform in every state without a congressional mandate. Even the most vocal states' rights supporters among the commissioners know this, and we hope the regulators' "discussions" in San Francisco do not have the effect of killing this new effort.

Prior to the San Francisco meeting, there was talk that, although the NAIC opposes NARAB II, members would propose legislation to mandate uniform and reciprocal laws in every state within three years. This would be huge progress over the current situation and could produce results faster and easier than the proposed NARAB II bill. But it won't happen if the naysayers win the day.

It's easy to blame commissioners for moving too slowly—or not at all—on issues we believe are important. (The acronym NAIC could stand for No Action Is Contemplated.) Although historically there has been plenty of foot-dragging, regulators have had plenty of company. Indeed, in many instances, the regulators' efforts at reform have failed because of intransigent state legislators and political pressure from local trade associations more concerned about turf protection than efficient, sensible regulation. There is an opportunity for Council members to help here. To counter local protectionist efforts, you can lobby not only your state regulator, but your state legislators, to act on issues such as surplus lines and producer licensing reform.

In the end, of course, it will require congressional action to close the deal on comprehensive reform, and we hope the regulators continue to engage constructively so they will have a seat at the table. In return, we should engage with our home state legislators and regulators and support positive changes at the state level.

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