



A National Alliance of Life Companies

NEWSLETTER

NATIONAL ALLIANCE OF LIFE COMPANIES *An Association of Life and Health Insurance Companies*

October 30, 2009

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The news in this publication, including links to background and supplemental information, is also available on the NALC members' website at <http://members.nalc.net>.

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A Letter from the Executive Director

Dear Member:



It was great seeing so many of you in Scottsdale for our Fall Meeting. The discussions were stimulating on a wide range of topics, and attendance was outstanding. A special thanks to President Cam Waite for putting together an outstanding program.

Last month, I spoke with the executive director of the organization that represents state budget officials in Washington. We had a chilling discussion about the relative health of state budgets. He noted that most budget officers expected revenues to remain below the 2008 budget levels until 2012 or 2013. Since there won't be a second stimulus package this year, I think you can expect another round of dramatic cuts...and possibly consideration of fee increases or business taxes in some states. We will monitor this closely.

These economic conditions serve as a chilling reminder of the economic challenges ahead. The equity markets have enjoyed a good run of late, but the labor markets remains weak, and we would all agree that job growth and consumer confidence must improve before we can breathe easier. If things remain stagnant, I wouldn't be surprised to see a second round of stimulus spending after the midterm elections. We all hope that won't be necessary.

It is beginning to look like a health care bill will pass. My sense is the public option will not be included, despite the efforts by Senator Reid and others. We may see some compromise that allows a pilot program or a study group or even nonprofit cooperative involvement, but a public insurance option is on life support. What's also very clear in the debate is that major cost containment efforts will play a smaller role than the expansion of health care coverage for the uninsured. Rest assured cost containment will remain a big issue for private employers, the states, and the federal government.

The NALC continues to be involved in issues like Principles Based Reserving and the Optional Federal Charter before the NAIC and the Congress, respectively. So far, our position is holding firm on both issues. Nevertheless, we expect a continued battle over the coming months.

Please mark your calendars to attend our Spring Meeting in Kiawah Island, South Carolina (Charleston), which will be held April 14 to April 17, 2010. We expect a great attendance and another outstanding program.

Please let us know if we can assist you or your organization in any way.

Best regards,

A handwritten signature in black ink that reads "Jim Hodges". The signature is written in a cursive, flowing style.

Jim Hodges
Executive Director

NALC Highlights

Fall Conference Report

September 30 - October 3, 2009
Westin Kierland Resort & Spa
Scottsdale, Arizona



The NALC held its 2009 Fall Conference September 30 – October 3 at the Westin Kierland Resort & Spa, Scottsdale, Arizona. Following are summaries of presentations by participating speakers.

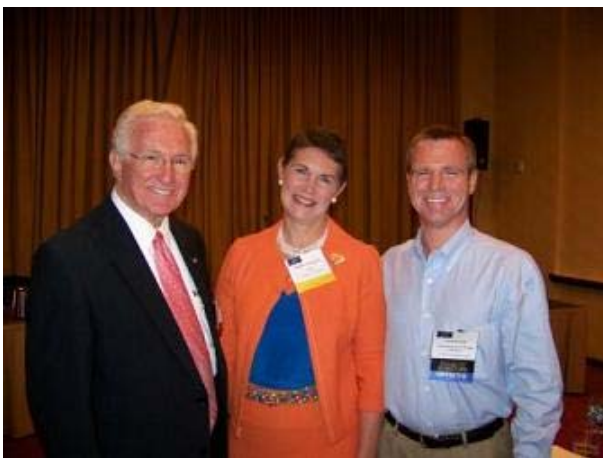
Christina Urias, Director, Arizona Department of Insurance

Christina Urias is the one of the longest serving insurance commissioners in the United States, having served Arizona for the past seven years. This highlights the challenges of continuity and experience among the nation's commissioners.

Director Urias talked about financial regulatory reforms being proposed in Washington. The focus is on systematic risk regulation, and she does not believe that insurance companies pose a risk that could collapse the financial system. States have done a good job of regulating insurance companies, and these companies have not experienced the problems of other financial institutions. The Director noted that a large part of the job of state insurance regulator is handling consumer complaints. With over 60,000 complaints a year, this is difficult. With large state budget cuts, it's much harder to manage. It is clear that a remote federal bureaucracy could not adequately handle the wide variety of complaints that state agencies deal with on a daily basis.



Cam Waite & Christina Urias



Nick Monaco, Terri Vaughan & Cam Waite

Director Urias believes that state regulators should focus on three things to improve oversight: 1. employing strategic risk management tools to evaluate company decisions; 2. making certain that companies have adequate capital on hand to take care of claims; and 3. making certain the interests of shareholders and management of companies are properly aligned.

Terri Vaughan, CEO, NAIC

Terri Vaughan is the CEO of the NAIC. She is the former Iowa Insurance Commissioner, President of the NAIC, and a former professor of insurance at Drake University in Des Moines. Ms. Vaughan led a discussion on federal financial regulatory reform. She noted that the Consumer Financial

Products Safety Agency legislation does not broadly include insurance, as it's limited to credit, mortgage and



title insurance. The Office of National Insurance Legislation (also known by other acronyms) does propose a limited federal role in insurance oversight, mostly dealing with international insurance treaty issues and other agreements.

Ms. Vaughan believes the NAIC cannot simply say no, and must offer some constructive ideas regarding ways to work with the federal government. In that light, the goal of the NAIC is to preserve the exclusive regulatory authority over insurance, while considering such ideas as a joint state-federal systematic risk council and an Office of National Insurance with limited, non-regulatory functions (such as oversight).

Ernie Csiszar, Insurance Director, Bridge Strategy Group LLC

Ernie Csiszar is the former Insurance Commissioner of South Carolina, the former President of the NAIC, and the former CEO of the Property and Casualty Insurers of America. He is currently teaches at the University of South Carolina and is a consultant with Bridge Strategy Group. Mr. Csiszar says he supports state regulation conditionally, because the federal government has traditionally done such a poor job of regulating business. He favors an approach like the “tool box” to achieve greater uniformity of product approval and licensing among the states.

Interestingly, Mr. Csiszar believes the issue of whether or not the federal government passes an insurance regulation law will be driven by outside events—namely the jobs market. With unemployment potentially reaching low to mid double digits, Congress will be distracted by the demands and needs of the unemployed. He also suggested that the insurance industry misplaces its attention on the role of the NAIC in the creation of insurance law and regulation. In his view, state legislatures are where the real action is, and he thinks industry should put more focus and resources in that area.



Welcome to Arizona!



Byron Allen & Mike Kiley

Protecting Your Investments

Mike Kiley, CEO, Kiley Investment Management

Mike Kiley, of Kiley Investment Management, presented an investment topic at this year's fall NALC meeting, held at the Westin Keirland Resort in Phoenix, Arizona. The presentation was entitled, “Protecting Your Investments”. Kiley spoke about a system that is invaluable in protecting the value of bonds in one's portfolio.

The two-part system uses a macroeconomic methodology, employing the business cycle as a basis for determining which asset classes to choose—at various times in the cycle. Kiley gave a brief overview of the history of the business cycle, and then provided a guide, or “roadmap”, which an

investor can use to make investment decisions.



Wait For Me!

The system then uses basic financial analysis of individual companies to find overvalued and undervalued bonds for investment. In his example, Kiley showed that Anheuser Busch, recently purchased by Inbev, is more highly leveraged than the market appears to be acknowledging. He recommended selling this holding. Then Kiley presented an argument that California taxable municipal bonds, despite their budget problems, are an excellent investment at current prices and yields. Kiley argues that risk is not measured by a bond's ratings, but rather by its price. If there is a high probability that the price will decline, then the bond is risky, and should be sold and/or avoided-no matter what the bond is rated. If there is a low probability of price decline, then the bond should be given serious consideration as an investment for the investor's portfolio. Price matters!

Kiley Investment Management is a registered investment advisor, managing bonds for institutional clients, and specializing in insurance company portfolios. Kiley Partners, a FINRA licensed broker-dealer, is an affiliated company, which buys and sells bonds for institutional clients. The firm's address is Kiley Investment Management, 13241 Oakmeade, Palm Beach Gardens, FL. 33418. Phone: 561 630 5006. Email: mike.kiley@kileypartners.com.

Identity Theft Prevention Pursuant to the Identity Theft Red Flags Rule

Todd Newton, Partner, Mitchell, Williams, Selig, Gates & Woodyard

On December 4, 2003, the President signed the Fair and Accurate Credit Transactions Act (the Act) into law. The Act amended portions of the Fair Credit Reporting Act of 1970 and added new provisions requiring the federal bank regulatory agencies and the Federal Trade Commission (collectively, the "Agencies") "to issue joint regulations and guidelines regarding the detection, prevention, and mitigation of identity theft, including special regulations for requiring debit and credit card issuers to validate notifications of changes of address under certain circumstances." The Act also required the Agencies "to issue joint regulations that provide guidance regarding reasonable policies and procedures that a user of a consumer report should employ when the user receives a notice of address discrepancy."



Todd Newton & Rick Campbell

On July 18, 2006, the Agencies issued proposed rules and guidelines for implementing the provisions of the Act, giving the public until September 18, 2006 to comment on the proposed rules and guidelines. After considering the comments that were submitted, the Agencies published their final rule on November 9, 2007 (the "Rule"). The Rule became effective November 1, 2008, except for those entities covered by the Federal Trade Commission ("FTC"). The FTC has extended the enforcement deadline several times, with the current deadline being November 1, 2009.

In summary, the Rule (and accompanying guidelines) imposes several requirements that require prompt attention. First, financial institutions that offer or maintain certain types of accounts and creditors that permit multiple transactions to persons, all primarily for personal, family or household accounts (“Covered Accounts”), are required to implement a written program to detect, prevent, and mitigate identity theft in connection with the opening of a Covered Account or any existing Covered Account. The Agencies deemed the program to have such importance that they require the board of directors and senior management to develop, implement and oversee the program. Second, debit and credit card issuers are required to assess the validity of change of address notifications, particularly when such requests are followed by a request for an additional or replacement card for the same account. Third, “users of consumer reports” and “persons requesting consumer reports” (“Users”) are required to implement policies and procedures that must be followed when a User receives a notice of address discrepancy concerning the customer about whom the credit report was requested.



Friday Night Fun

There are a few points that are worth mentioning. First, for those entities covered by the Rules, compliance is mandatory. Second, the Rules and accompanying guidelines make it clear that each program must be tailored to the specific entity and the industry in which it is engaged. Third, the Rules envision that companies will not have to “reinvent the wheel” by creating and implementing new policies and procedures if they already have certain policies and procedures already in place. Rather, companies may revise their existing policies and procedures to incorporate those elements required by the Rule.

Alternative Solutions for Funding New Business Development

Steve Christopher, President & CEO, Capital Partners Funding

Kenneth Johnson, President, Palmetto Consulting Concepts, LLC

Michael Molony, Partner, Young Clement Rivers, LLP

The presentation titled “Alternative Solutions for Funding Life and Annuity Business was made at the NALC fall conference in Phoenix, AZ. The presenters were, Michael Molony, Partner, Young Clement Rivers, LLP, Steve Christopher, President and CEO, Capital Partners Funding Group, and C. Kenneth Johnson, President, CIFG Captive Management Company, Inc.



Ken Johnson, Mike Molony & Steve Christopher

Mr. Molony presented the segment from the *Attorney’s Viewpoint* which included an overview of captive insurance developments he has experienced in South Carolina, where the State has licensed over 25 Special Purpose Financial Captives used to fund the redundant reserves of major term life insurance companies. Mr. Molony has played a major role in helping license these companies. His firm works closely with the SC Dept. of Insurance to see that these unique reinsurers are properly capitalized and managed. He also sees a growing opportunity for small to mid size life carriers to be able to take advantage of this same reinsurance business model in the very near future. The SPFC model is very cost effective and allows the parent life company to



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own captive reinsurance company. Capital Partners Funding Group can assist in both the long term surplus funding that is required to finance life reserves and provides a total structuring facility with its team of experienced actuaries and investment bankers.

Mr. Johnson closed out by presenting the *Viewpoint of the Financial Officer.*, He covered the proper regulatory oversight that captive formations must follow and explained that how only a small group of state insurance departments are experienced in managing this oversight. He explained the importance of having the proper team of professionals to assist in the captive development process and in selecting the best state for domiciling the new captive company. He included in his presentation, what many in the captive industry see as the next big advantage for captive formation; the Segregated Cell Special Purpose Captive. Through the use of segregated cell formations you have a fully licensed company with its own IRS tax ID, under a regulatory structure that is much cheaper to form and to manage going forward. This business model is now in the development stages in South Carolina and expects to become available in 2010.

If you would like a copy of the PowerPoint Presentation that was presented by these three gentlemen, please contact C. Kenneth Johnson at kjohnson@cpfgnet.com or call his office at 843-849-7647.



arrange a better reinsurance platform to save on reinsurance cost as well as a good model to free up much needed surplus.

Mr. Steve Christopher, who as the past President of ING Life USA, provided the Alternative Solution from the *Insurance Executive's Viewpoint*. Mr. Christopher pointed out the annual issues many life companies must go through every year in structuring their reinsurance treaties and how this process impacts not only the short range planning process but the long range planning process as well. Alternative Solutions can be a more flexible tool for the planning process. He encourages all life companies, not just term product writers, to see the advantages of having your



Suzanne Loomis & Bob Ries

and expects to become available in 2010.

Save the Date

2010 Spring Conference

April 14 – April 17, 2010
Kiawah Island Golf & Resort
Kiawah Island, South Carolina

Complete registration information will be available soon on the NALC website at www.nalc.net.

NAIC Focus

Winter 2009 National Meeting

The NAIC will hold its Winter 2009 National Meeting December 5-8, 2009, at the Hilton San Francisco Union Square, San Francisco, California. Registration, attendee information and the agenda will be available soon on the [NAIC website](#).

New Model Drafts

NAIC Committees have published new drafts of the following models. You may follow the links for the text of the models.

- Actuarial Guideline XXXIII - Determining CARV Reserves for Annuity Contracts with Elective Benefits
http://www.naic.org/documents/committees_models_actuarial_guideline_CARV_reserves.pdf
- Suitability in Annuity Transactions Model Regulation (# 275)
http://www.naic.org/documents/committees_models_annuity_suitability.pdf
- Amendments to Long-Term Care Insurance Model Regulation (#641)
http://www.naic.org/documents/committees_models_amendments_ltc_model_reg.pdf

NAIC Adopts Standard Valuation Model Legislation

Signals Cautious Approach to Principles-Based Solvency Regulation

Members of the NAIC have made major strides to modernize the regulation of life insurance and annuity products. At the Executive/Plenary session of its Fall National Meeting, NAIC members adopted changes to the Standard Valuation Model Law that, when enacted by state legislatures, is designed to improve the way life insurers calculate the reserves held to protect consumer's financial interests in insurance products. Currently, insurance reserves are calculated using static formulas that are not always optimal when matching risks to reserves.

“This significant action replaces static formulas with a principles-based approach — using risk analysis techniques such as modeling and simulation to better capture the various risks inherent in establishing adequate reserves,” said Roger Sevigny, NAIC President and New Hampshire Insurance Commissioner. “Modernizing these methods provides regulators with better tools to protect insurance consumers.”

“Changes in the Standard Valuation Model Law will be closely associated with changes in the Valuation Manual used by regulatory actuaries to verify the accuracy and adequacy of the reserves being held by insurers,” said Tom Sullivan, Chair of the Life Insurance and Annuities Committee and Connecticut Insurance Commissioner. “This will add important consumer protections to safeguard consumer's investments in life insurance products.”

The Valuation Manual provides specific guidance for each product to make sure the life insurer is holding the correct amount in reserve to meet its obligations to policyholders. The changes made to the Standard Valuation Model Law will:

- Add reserves for certain benefits, options and guarantees that involve significant risks, but previously had little or no reserves required under static formulas; and
- Right size other reserves for products that consumers find beneficial, but previously formulas caused insurers to maintain reserves in excess of what may be considered reasonably conservative.

Begun in 2004, considerable efforts behind this action came through the NAIC's Life and Health Actuarial Task Force, the Life Insurance and Annuities Committee and the Principles Based (EX) Working Group. Further action on the model requires an update to the NAIC's Standard Valuation Manual, which is scheduled to be completed by the end of 2009.

"I look forward to advancing forth these efforts," said Adam Hamm, Chair of the Principles-Based Working Group and North Dakota Insurance Commissioner. "State legislation based on this model will provide the tools needed to execute this modernization effort."

NAIC Warns: Securitizing Life Insurance Settlements Is Risky

Regulators Alert to Need for Disclosure and Consumer Protection

The relatively new phenomenon of securitizing life insurance settlements is drawing scrutiny from state regulators for potential risks to consumers in the financial marketplace, the National Association of Insurance Commissioners (NAIC) told Congress in late September. Testifying before the House Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, NAIC Vice President and Iowa Insurance Commissioner Susan Voss cautioned lawmakers about such innovative investment schemes.

"Life insurance settlements are necessary transactions for some consumers, but they require appropriate regulation with a focus on disclosure and consumer protection," Voss told lawmakers. "This oversight is critical, particularly as stranger owned life insurance, or STOLI, continues to emerge."

Voss, who also regulates securities in her state, explained that "while such securitization is outside the jurisdiction of insurance regulators, we have concerns that securitization of life insurance settlements will incentivize would-be STOLI investors to attempt to expand the marketplace – much as securitization of mortgages helped dramatically expand that marketplace."

Voss also raised concerns about the impact of securitization on policies that would otherwise lapse — requiring higher insurance premiums; and about the need to be certain that any securitization of life insurance settlements does not compromise the original policyholder's rights and privacy.

NCOIL Notes

NCOIL Annual Meeting

Register online for the NCOIL 2009 Annual Meeting in New Orleans, Louisiana, scheduled for November 19 - 22, 2009. For more information or to register, go to <http://www.ncoil.org>. The meeting will take place at the Royal Sonesta Hotel. Additional information is available on the NCOIL website.

NCOIL Pans Federal Insurance Office Proposal

NCOIL has reasserted its strong opposition to a Congressional Federal Insurance Office (FIO) proposal. In an October 23 letter to House Financial Services Committee Chairman Barney Frank (D-MA) and Ranking

Member Spencer Bachus (R-AL), NCOIL Officers wrote that H.R. 2609, the Federal Insurance Office Act of 2009, moves well beyond previous Committee discussions and towards the establishment of a federal insurance czar at the U.S. Treasury Department—a kind of slippery slope that NCOIL cautioned against throughout 2008.

President Sen. James Seward (NY) said:

“NCOIL has long argued that the creation of any FIO, OII, or ONI would represent the first step down a path to federal insurance chartering—a concept that few interests outside some large banks and insurance companies endorse. And now we understand that optional federal charter proponents are pushing the Committee to approve an amendment for the FIO to study “State insurance regulatory structures” during markup this week. Given the self-evaluative nature of state insurance regulation, we feel that an FIO study is neither necessary nor warranted.”

Along with NCOIL President Sen. Seward, NCOIL Officers—President-Elect Rep. Robert Damron (KY), Vice President Rep. George Keiser (ND), Secretary Sen. Carroll Leavell (NM), and Treasurer Sen. Vi Simpson (IN)—in the letter wrote, “We continue to disagree with the necessity for such an office and question its accountability and effectiveness. We believe that state regulation is successfully guiding insurers through the current economic downturn. Under state regulation, the insurance industry has always been, and continues to be, financially stable and solvent, unlike federally regulated entities.”

The NCOIL Officers continued:

“The office’s enhanced preemptive power and lack of answerability are alarming to state officials who have seen the success of checks and balances in the state system. H.R. 2609 permits a FIO—to be led by an unconfirmed appointee of the Secretary—to override existing law without meaningful dialogue with the states. In fact, as currently drafted, the FIO only must consult the states prior to requesting insurance data from the private sector and after a determination that a state law will be preempted. Other consultation with state officials is limited “to the extent the Director determines appropriate.”

Regarding a state-federal approach to addressing systemic risk in U.S. financial markets, the NCOIL leaders—citing a May 2009 NCOIL letter to Congress—said: We stressed the importance of building on the strengths of—not replacing—our existing regulatory structure, including the system of state-based insurance oversight. We highlighted the need for state and federal coordination and wrote, “...the new horizontal structure should equally respect the expertise and contributions of the various financial services regulators, both state and federal.” We stand by those positions.

NCOIL lawmakers also informed their Congressional counterparts that NCOIL would consider a Resolution Opposing H.R. 2609, the Federal Insurance Office Act, in November. The State-Federal Relations Committee will vote on the proposed resolution on Friday, November 20, in conjunction with the November 18 through 22 NCOIL Annual Meeting in New Orleans, Louisiana. NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country.

News from the States

Nebraska and West Virginia Adopt SBS & OPTins

The West Virginia Insurance Department and the Nebraska Department of Insurance have announced their adoption of State Based Systems (SBS). In addition, Nebraska will be leveraging OPTins, the newest tool to automate regulatory compliance.

SBS provides a comprehensive, Web-based application for use by state regulators in support of all insurance regulatory functions. OPTins is the Online Premium Tax for Insurance application that facilitates the collection of premium tax forms and payments.

"We look forward to leveraging all facets of these NAIC tools and strongly believe that a single, fully integrated regulatory system is critical to our staff needs," said Ann Frohman, Nebraska Insurance Director. "SBS will allow us to perform our work in the full insurance regulatory life cycle using a single user-friendly interface. In addition, SBS has a wide variety of external tools that will allow us to respond effectively to our customers while holding down our costs."

"In protecting West Virginia consumers, we know we must have effective tools to use in producer licensing, company licensing, enforcement and consumer services," said Jane Cline, West Virginia Insurance Commissioner. "The broad array of services offered by OPTins and the number of NAIC members using SBS supported our selection of these systems as the solution of choice for our internal processing needs. These tools will be instrumental as we continue to improve and streamline our processes, maintain pace with NAIC uniformity initiatives and further expand our ability to effectively respond to our consumers."

In addition to Nebraska and West Virginia, SBS is the solution of choice in Alabama, Delaware, Florida, Illinois, Iowa, Kansas, Missouri, New Hampshire, New Jersey, North Carolina, North Dakota, Puerto Rico, Rhode Island, Tennessee and Washington, D.C. OPTins is currently in use in Alaska, Alabama, Arizona, Delaware, Montana, North Dakota and Rhode Island.

On the National Front

Senate Majority Leader Favors Public Option

Senate Majority Leader Harry Reid said the health care reform bill he'll put on the Senate floor includes a version of the public option that the insurance industry opposes. Reid, who is sending the legislation to the Congressional Budget Office for an analysis of what it might cost, detailed his Senate compromise bill, which includes a somewhat weaker version of government-run insurance because it allows states to opt out of the national plan. "The best way to move forward is to include a public option with the opt-out provision for states," Reid said at a press conference announcing his decision. "I think it's the fairest way to go." Though he also said the public option is "not a silver bullet."

Reid said he believed the rest of his Democratic caucus would support the idea once it reaches a vote. If all 60 lawmakers in that caucus vote yes, the bill can bypass a filibuster threat. Reid was asked repeatedly why he chose to include the public option. "It's something I believe in," he said. "All the national polls show a wide majority of Americans support the public option."

The insurance industry is among the most vocal critics of the idea. "A new government-run plan would underpay doctors and hospitals rather than driving real reforms that bring down costs and improve quality," said

Karen Ignagni, president and chief executive officer of America's Health Insurance Plans, in a statement responding to Reid's announcement. "The American people want health care reform that will reduce costs and this plan doesn't do that."

As soon as the congressional analysts return with a cost report, the majority leader indicated the bill will move toward a debate on the Senate floor.

With the House of Representatives expected to debate and vote on a reform bill that will also include the government-sponsored insurer, Reid's announcement has swung the months-long argument back toward the public option, even though the bill that recently passed the Senate Finance Committee with great fanfare didn't have it. As majority leader, Reid had the responsibility of merging the two versions of the bill in the Senate. The Health, Education, Labor and Pensions Committee's bill included a public option with few limitations, though it also was projected to cost significantly more than subsequent versions.

Reid had decided not to include the "trigger" provision favored by some moderates, including Republican Sen. Olympia Snowe of Vermont, that would have left the public option dormant unless the private insurance market failed to meet requirements for competition and cost. But the merged bill does include another compromise plan straight from the Finance Committee's bill: nonprofit health cooperatives initially funded by government money.

Sen. Max Baucus, D-Mont., chairman of the Finance Committee, had offered the co-ops in his committee's bill as a compromise for leaving out the public option. Baucus had worked for months to come up with a health care bill that earned at least one Republican supporter.

About whether he is now leaving Snowe's vote behind, Reid said, "At this stage, she does not like a public option of any kind. ... We hope that Olympia will come back."

Republicans have consistently argued against this proposal for the government to sell insurance, but a number of Democrats have said they won't vote for a bill that doesn't include it. "The divisive debate about a government-run plan is a roadblock to reform," Ignagni said.

A statement from Tom McMahon, acting executive director of progressive group Americans United for Change, congratulated Reid. "Senator Reid's announcement that the Senate health care bill will include a public health insurance option, shows that he has refused to buckle in the face of withering pressure from the big insurance companies and sided instead with everyday health care consumers."

CBO: Effects of Repealing Insurers' Antitrust Exemption Minimal

The Congressional Budget Office has analyzed the legislative effort to repeal health insurers' antitrust exemption, and the office concluded that it would neither have a significant impact on the insurance business, as its industry opponents have argued, nor significantly lower premiums, as its proponents have contended.

The legislation, which is aimed at health and medical liability insurers, is a partial repeal of the antitrust exemption provided in the McCarran-Ferguson Act of 1945, disallowing the anti-competitive practices of price fixing, bid rigging and market allocations. However, as the CBO pointed out, these actions are already prohibited under state regulation of insurers.

The bills — one of which has passed through a House committee and another of which is promised as an amendment to the Senate health reform bill — "could affect the costs of and premiums charged by private

health insurance companies; whether premiums would increase or decrease as a result is difficult to determine, but in either case the magnitude of the effects is likely to be quite small," according to the brief CBO report.

The CBO analysts said they considered information provided by federal agencies, the National Association of Insurance Commissioners, consumers groups and private attorneys. Though the legislators that are championing the effort — such as Sen. Patrick Leahy, the chairman of the Senate Judiciary Committee — contend that stripping the exemption would lower prices for consumers, the CBO predicted the idea "would have no significant effect on the premiums that private insurers would charge for health insurance."

Insurance industry opponents of the bills have said they are concerned that smaller insurers wouldn't be permitted to share data with other companies. But the CBO report said, "The bill's restrictions would not apply to certain collaborative activities involving actuarial services."

The congressional analysts also said that the bill's cost or benefit to the federal budget "would not be significant because of the small number of cases likely to be affected." Insurance groups from other sectors have jumped into the debate, though, because of fears that the removal of the exemption for these health-related insurers could soon become a repeal of their own exemptions.

The American Insurance Association weighed in after Leahy and Senate Majority Leader Harry Reid said they would try to push this idea into the health reform legislation. The group issued a statement: "Ironically, statutory uncertainty...will bring years of litigation and discourage new companies from entering the medical malpractice insurance market — undercutting the primary purpose of federal antitrust laws, which are designed to promote market competition free from government or private interference." The statement went on to say: "Any legislative effort to modify McCarran-Ferguson would be bad for consumers and for business."

Industry News

Economy Hurts Life/Health Yields

Rosemarie Mirabella, A.M. Best Manager Life/Health Research and Emerging Issues

For most life/health insurers, overall investment yields are at five-year lows. In fact, 20 out of the top 25 companies had declining investment yields in 2008.

This reflects several things. First is the decline in overall yields during the last year for short-term Treasury bills and the benchmark 10-year Treasury note, which was partially offset by widening credit spreads for the fourth quarter of 2008. Investment yields were also pressured by lower alternative asset income in 2008.

Perhaps more significantly, the short-term, three-month Treasury bill yield was virtually zero during the fourth quarter of 2008. Many companies with large equity market exposures--most notably variable annuity writers--responded to the credit crisis by substantially increasing their cash and short-term positions during the fourth quarter, which were invested at a virtually zero interest rate.

Given current portfolio yields, overall spread compression remains a key concern for the industry and is likely to negatively impact both variable annuity and fixed annuity writers if Treasury yields remain low. While the economy is showing some signs of stabilization and though interest rates may rise eventually, A.M. Best does not think the Federal Reserve will jeopardize the prospects for economic recovery by raising interest rates in the near term. The decline in overall assets is most evident on the separate account side and reflects the bear-market stock declines of 2008.

The top 15 writers' rankings remain unchanged, though some--primarily mutual insurers such as New York Life, TIAA and Mass Mutual--increased their overall asset rankings. This most likely reflects a general flight to quality as well as lower overall equity market exposure for mutual companies.

While equity markets have risen dramatically since March 2009, A.M. Best remains cautious on the sustainability of the increases in the S&P 500 and the Dow, and notes the potential for the markets to retest their March 2009 lows.

Calendar of Industry Events

November 19 - 22, 2009 NCOIL 2009 Annual Meeting Royal Sonesta Hotel New Orleans New Orleans, Louisiana	December 5-8, 2009 NAIC Winter National Meeting Hilton San Francisco Union Square San Francisco, California
March 27-29, 2010 NAIC Spring National Meeting Hyatt Regency & Colorado Convention Center Denver, Colorado	April 14 – April 17, 2010 NALC 2010 Spring Conference Kiawah Island Golf & Resort Kiawah Island, South Carolina
June 12-14, 2010 NAIC Summer National Meeting Sheraton Seattle & Washington State Convention & Trade Center Seattle, Washington	September 19-22, 2010 NAIC Fall National Meeting Gaylord National Resort & Convention Center Washington, DC
September 22 – September 25, 2010 NALC 2010 Fall Conference Stoweflake Resort Stowe, Vermont	