Smart decisions. Lasting value.™

NAIC Spring 2024 National Meeting Update

Table of Contents

© 2024 Crowe LLP www.crowe.com

Crowe LLP and its subsidiaries are independent members of Crowe Global, a Swiss organization. “Crowe” is the brand used by the Crowe Global network and its member firms, but it is not a worldwide partnership. Crowe Global and each of its members are separate and independent legal entities and do not obligate each other. Crowe LLP and its subsidiaries are not responsible or liable for any acts or omissions of Crowe Global or any other Crowe Global members, and Crowe LLP and its subsidiaries specifically disclaim any and all responsibility or liability for acts or omissions of Crowe Global or any other Crowe Global member. Crowe Global does not render any professional services and does not have an ownership or partnership interest in Crowe LLP or any other member. Crowe Global and its other members are not responsible or liable for any acts or omissions of Crowe LLP and its subsidiaries and specifically disclaim any and all responsibility or liability for acts or omissions of Crowe LLP and its subsidiaries. Visit www.crowe.com/disclosure for more information about Crowe LLP, its subsidiaries, and Crowe Global.

NAIC Spring 2024 National Meeting Update

The National Association of Insurance Commissioners (NAIC) recently held its Spring 2024 National Meeting (Spring Meeting). The following summarizes certain activities of the NAIC that took place during the Spring Meeting and on various WebEx Meetings leading up to Spring Meeting.

Statutory Accounting Principles (E) Working Group

The following highlights items discussed as part of the Statutory Accounting Principles (E) Working Group's (SAPWG) Hearing and Maintenance agenda items.

Intercompany Pooling Arrangements - SAPWG re-exposed nullification of Interpretation (INT) 03-02 "Modification to an Existing Intercompany Pooling Arrangement" (INT 03-02) as such guidance conflicts with SSAP No. 25 "Affiliates and Other Related Parties: (SSAP No. 25) regarding transfers of assets and liabilities for purposes of settling economic and non-economic transactions with related parties. INT 03-02 allows the use of statutory book value which is contradictory to SSAP No. 25's requirement to utilize fair value and results in unrecognized gains or losses when using bonds to make payments to affiliates for modifications to existing intercompany reinsurance pooling arrangements. Interested Parties continue to disagree with INT 3-02's nullification citing varying issues on the matter and that statutory book value would be the more appropriate measure for these types of transfers. Interested Parties suggested revisions to SSAP No. 63 "Underwriting Pools" allowing a narrow scope exception for the statutory book value accounting treatment. Discussions remain ongoing.

Bond Project - SAPWG adopted revisions to SSAP No. 21R "Other Admitted Assets" (SSAP No. 21R) and the Principles Based Bond Definition Issue Paper to provide guidance on the measurement method for residual tranches. Revisions include the "Effective Yield Method with a Cap" (EYMCAP) as recommended by Interested Parties with a practical expedient to allow reporting entities to elect to use the cost recovery method in lieu of the EYMCAP method. The revisions detail limitations if electing the practical expedient which requires its use for all residual holdings and a prospective approach for new acquisitions only if a company wanted to move away from the cost recovery method once it is elected. The cost recovery method does not allow a reporting entity to recognize investment income on a residual tranche until the cost basis has been recovered.

© 2024 Crowe LLP

The EYMCAP method allows recognition of investment income on a residual tranche based upon the calculated effective yield with excess amounts reflected as a return of capital reducing the book adjusted carrying value of the residual tranche investment. Transition guidance has been included to specify how residuals currently accounted for under different SSAPs will move to the measurement guidance in SSAP No. 21R. Additionally, as residuals are now subject to the accounting and admittance guidance in SSAP No. 21R, residuals previously in the form of an SSAP No. 48 "Joint Ventures, Partnerships, and Limited Liabilities Company" investment are no longer required to obtain an audit for admittance. Revisions are effective for January 1, 2025, with an early adoption date of December 31, 2024 permitted.

SAPWG exposed the need for additional revisions for consistency within all SSAPs to centralize guidance for residual tranches in SSAP No. 21 and to exclude residual tranche guidance from all other SSAPs.

SAPWG exposed revisions to both SSAP No. 26R "Bonds" and the draft issue paper for the principles-based bond project, to clarify the guidance for debt securities issued by funds. The revisions intend to permit debt securities issued by funds to be classified as issuer credit obligations if the fund represents an operating entity. Revisions include guidance to assist in determining if a fund represents an operating entity or a securitization vehicle that represents an asset backed security issuer. Discussions remain ongoing.

Schedule BA Instructions - SAPWG re-exposed revisions to the Schedule BA Instructions to enhance the definition of investments included in SSAP No. 48 "Joint Ventures, Partnerships and Limited Liability Companies" (SSAP No. 48) (i.e., non-registered private funds, joint ventures, partnerships, or limited liability companies) or residual interests and reported based upon the underlying characteristics of the assets. Discussions remain ongoing.

Collateral for Loans - SAPWG adopted revisions to SSAP No. 21R to add a disclosure for collateral loans on Schedule BA of the Annual Statement to enable regulators to identify the type of collateral in support of the admittance of collateral loans in the scope of SSAP No. 21R. This exposure proposes expanding Schedule BA so that collateral loans are separated by type of investment that secures the loan. Additionally, a new aggregated data captured note was exposed to identify the admitted and non-admitted collateral loans by type of collateral that secures the loan. The target adoption date is for year-end 2024 reporting. Discussions remain ongoing.

Risk Transfer on Combination Reinsurance Contracts - SAPWG exposed revisions to SSAP No. 61R "Life, Deposit-Type and Accident and Health Reinsurance" (SSAP No. 61R) to incorporate existing risk transfer guidance that is in Exhibit A "Implementation Questions and Answers" of SSAP No. 62R "Property and Casualty Reinsurance". The proposed revisions would require risk transfer to be evaluated in aggregate for reinsurance contracts with interrelated contract features such as experience rating refunds. The proposed revisions would also update the yearly renewable term guidance in SSAP No. 61R to reference the guidance in paragraph 6 of Appendix A-791 regarding the entire reinsurance contract and the effective date of the contract. Discussions remain ongoing.

U.S. GAAP Accounting Standards Update - SAPWG adopted for rejection the following:

1) FASB ASU 2023-03 Presentation of Financial Statements (Topic 205), Income Statement - Reporting Comprehensive Income (Topic 220), Distinguishing Liabilities from Equity (Topic 480), Equity (Topic 505), and Compensation - Stock Compensation (Topic 718) "Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 120, SEC Staff Announcement at the March 24, 2022 EITF Meeting, and Staff Accounting Bulletin 6.B, Accounting Series Release 280 – General Revision of Regulation SX: Income or Loss Applicable to Common Stock."

2) FASB ASU 2023-04 Liabilities (Topic 405) "Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin No. 121."

SAPWG exposed the following:

1) Adopt with modification FASB ASU 2023-1 Leases (Topic 842) “Common Control Arrangements” with revisions in statutory accounting to reject the practical expedient for private companies and not-for-profit entities but adopt the leasehold improvement guidance with modification to align with existing statutory accounting guidance.
2) Adopt with modification FASB ASU 2023-8 Intangibles - Goodwill and Other - Crypto Assets (Subtopic 350-60) “Accounting for and Disclosure of Crypto Assets” with revisions in statutory accounting to adopt the definition of crypto assets with clarification that directly held crypto assets are nonadmitted for statutory accounting purposes.
3) ‘Adopt with modification FASB ASU 2023-9 Income Taxes (Topic 740) “Improvements to Income Tax Disclosures” to adopt disclosure of income before income tax expense disaggregated by domestic and foreign, income tax expense and paid by federal, state and foreign, income taxes paid to each individual jurisdiction in which income taxes paid is equal to or greater than 5% of total income taxes paid, qualitative disclosures on tax rate reconciling items and removal of disclosure of the cumulative amount of each type of temporary tax difference when a deferred tax liability is not recognized for undistributed foreign earnings.
4) Adopt with modification FASB ASU 2023-6 Disclosure Improvements “Codification Amendments in Response to the SEC’s Disclosure Update and Simplification Initiative” to adopt certain disclosures for unused commitments and lines of credit disaggregated by short and long-term and various disclosures for repurchase agreements.

New Market Tax Credits - SAPWG adopted revisions expanding SSAP No. 93 “Low Income Housing Tax Credit Property Investments” (SSAP No. 93) and SSAP No. 94R “Transferrable and Non-Transferrable State Tax Credits” (SSAP No. 94R). Adopted revisions expand SSAP No. 93 to include all qualifying tax equity investments where the return is primarily earned through tax credits regardless of structure. Adopted revisions expand SSAP No. 94R to include all state and federal tax credits which have been allocated to or purchased by the reporting entity. The proportional amortization method is applied to these types of investments where the initial cost of the investment is amortized in proportion to the tax credits and other tax benefits allocated to the investor. Additionally, the Prospective Utilization Assessment was adopted into SSAP No. 93 outlining admissibility guidelines related to these types of investments and requiring an assessment of the future utilization of an investment’s unallocated tax credits to determine that investments are admitted only to the extent that the related unallocated tax credits can be utilized. SAPWG adopted an effective date of January 1, 2025 for these revisions.

Additionally, SAPWG discussed with Interested Parties options for reporting tax credit investments on Schedule BA of the Annual Statement. SAPWG recommended sponsoring a Blanks (E) Working Group (Blanks) proposal to utilize Schedule BA reporting sections for Guaranteed, Non-Guaranteed and all other Low Income Housing Tax Credit (LIHTC) investments with the removal of references to LIHTC investments as it is expected that the risk-based capital charges will remain the same regardless of tax program type. SAPWG also sent a referral to the Life Risk Based Capital (E) Working Group notifying them of the planned changes and directed NAIC staff to draft an Issue Paper to document these discussions. Discussions remain ongoing.

Asset Valuation Reserve and Interest Maintenance Reserve - SAPWG exposed revisions to the Annual Statement instructions to clarify guidance that directs realized gains and losses on mandatorily convertible and perpetual preferred stock to be allocated to the AVR and not added to the IMR, regardless of NAIC designation. Discussions remain ongoing.

© 2024 Crowe LLP

Admissibility Requirements for Investments in Downstream Holding Companies - SAPWG adopted revisions to SSAP No. 97 “Investments in Subsidiary, Controlled and Affiliated Entities” paragraph 24 to update language on audits and admissibility to better align with guidance in paragraphs 26 and 27 regarding the “look through” methodology which allows admitting audited investments in entities owned by unaudited downstream noninsurance holding companies. Revisions are effective immediately.

Other Matters - SAPWG discussed the following other matters which remain ongoing during the Spring Meeting:

1) Directed NAIC staff to develop updates to SSAP No. 58 “Mortgage Guaranty Insurance” and Appendix A-630 “Mortgage Guaranty Insurance” as a result of the adoption of the Mortgage Guaranty Insurance Model Act in August 2023.
2) Editorial revisions to the statutory accounting framework were exposed to remove the “Revised” and “R” previously intended to identify a substantively revised SSAP, from SSAP titles and references.
3) Exposed revisions to SSAP No. 107 “Risk-Sharing Provisions of the Affordable Care Act” to remove the transitional reinsurance program disclosures and the risk corridor disclosures as both programs have expired.
4) Exposed revisions to SSAP No. 27 “Off-Balance-Sheet and Credit Risk Disclosures Risk and Financial Instruments with Concentrations of Credit Risk” to remove certain FASB ASU references and specifically identify the financial instruments excluded from its scope. SAPWG also proposed revisions to the Annual Statement Instructions to add an “Other” derivatives category and disclosure examples and instructions for non-derivative financial instruments with off-balance sheet credit risks.
5) Exposure to remove lingering references from SSAP No. 2R “Cash, Cash Equivalents, Drafts and Short-Term Investments” that imply that asset backed securities or other Schedule BA items are permitted to be reported as cash equivalents or short-term investments.
6) Exposed revisions to Appendix A-791, Life and Health Reinsurance Agreements, to remove the first sentence in the Questions and Answers to paragraph 2c that discusses group term life insurance and clarify that this section within Appendix A-791 does not provide a safe harbor based on the Commissioner’s Standard Ordinary rates for yearly renewable term rates.
7) Discussed the need for revisions to SSAP No. 56 “Separate Accounts” to address the accounting and reporting of separate account assets that are reported at a value other than fair value such as book value.
8) Exposed a recommendation to add to Schedule S in the Life and Health Annual Statement and Schedule F of the Property & Casualty Annual Statement a new part to include all assets held under funds withheld arrangements which would include a separate signifier for assets subject to a modified coinsurance arrangement (i.e., modco).

© 2024 Crowe LLP

Life Risk-Based Capital (E) Working Group

Life RBC discussed a previous proposal given by the American Council of Life Insurers (ACLI) regarding the charge for repurchase agreements. The proposal is consistent with other initiatives to update charges in the RBC formula in an effort to modernize the framework. The proposal includes a recommendation to lower the C-0 charge to 0.2% on conforming repurchase agreements consistent with the current charge on conforming securities lending programs with additional General Interrogatory enhancements and disclosures to validate reporting entities attestations regarding compliance with the conforming program. SAPWG asked for deferral of this matter until SAPWG can assess any potential statutory accounting implications as the statutory accounting for securities lending programs and repurchase agreements are currently different. As a result, a year-end 2024 adoption of this agenda item remains unlikely as SAPWG continues to work through this matter. Discussions remain ongoing.

The American Academy of Actuaries (the Academy) discussed its current project related to principle-based reserves for non-variable annuities. The Academy presented various ideas for feedback and consideration by Life RBC. This included status updates on different phases of the project. The Academy stated that the next steps to this project are to discuss suggestions and develop them into recommendations as well as to create field test instructions to be used in the 2024 fixed annuity reserve and capital field test.

Life RBC received a presentation from the Academy that discussed correlation risks in the Life Risk Based Capital formula. The Academy emphasized in its presentation that a holistic review of correlation risk within the Life Risk Based Capital formula has never been performed and discussed a review of these risks focused on the correlation among C-risk factors. Life RBC directed the Academy to continue with this project. Discussions remain ongoing.

Life RBC received a referral from SAPWG asking for input on proposed reporting lines for collateral loans on Schedule BA of the Annual Statement with the potential of mapping those line items to the Life Risk Based Capital formula. Additional discussion included implications of the mapping of certain collateral loans through the asset valuation reserve based upon how these collateral loans will be reported on Schedule BA and if such mapping is appropriate. Life RBC will draft a proposed response to this referral.

© 2024 Crowe LLP

Health Risk-Based Capital (E) Working Group

The Health Risk-Based Capital (E) Working Group (Health RBC) discussed the Academy's review of the underwriting risk (i.e., H2) component and managed care credit calculation project which has progressed over the last two years. This includes the Comprehensive Medical, Dental & Vision, Medicare Supplement, and standalone Medicare Part D lines of business. The Academy has identified structural changes, modeling and analyzing risk-based capital factors and reviewing the managed care credit calculation as the three different categories for this project. The life and property and casualty risk-based formulas also utilize these factors and any changes to the health risk-based capital formula from this project will need to carry over to the life and the property and casualty risk-based formulas. Discussions remain ongoing.

Health RBC also discussed the previously exposed Academy presentation on the health care receivables factors included in the credit risk (i.e., H3) component in the Health RBC formula, which includes a proposal for a tiered health care receivables factor. The discussion included the degree of aggregation of non-pharmacy health care receivables; the inclusion of Life, Accident and Health annual statement data in the Academy's analysis on health care receivables; entities with no receivable collections; and the weighting of data points in the Academy's analysis. Discussions remain ongoing.

Property and Casualty Risk-Based Capital (E) Working Group

The Property and Casualty Risk-Based Capital (E) Working Group (P&C RBC) discussed the following related to the property and casualty risk-based capital formula:

1) Adopted exposure to remove pet insurance from inland marine line of business and add a new line of business for pet insurance in various components of the risk-based capital formula to be consistent with changes to the Annual Statement.
2) Adopted exposure to add severe convective storm as one of the catastrophe perils for informational purposes only in the Rcat component.
3) Discussed change to schedule P short tail lines in the Annual Statement to show 10 years of data beginning with 2024 reporting. P&C RBC adopted changes to the risk-based capital formula to coincide with this change to the Annual Statement.
4) Considered addition of wildfire peril to the risk-based capital formula upon review of wildfire peril impact analysis.
5) Re-exposed proposal related to the climate scenario analysis derived by the Climate & Resiliency (EX) Task Force for the purposes of providing an estimate of climate change for hurricane and wildfire perils intended to be useful to regulators for holding conversations with insureds that have a greater exposure to these types of risks.
6) Exposed changes to the risk-based capital formula to address double counting of stop loss premium which is expected to be entered into Line 9 of PR019.
7) Adopted exposure to add to the catastrophic risk interrogatories disclosures regarding information from insurers on the structure of its catastrophic reinsurance program. Reinsurance information is requested on a group and not individual company level.

P&C RBC also exposed with some limited modifications to cap certain factors for some line items in the analysis the underwriting risk factors and investment income adjustment factors presented by the Academy which recently completed its ongoing project on this matter.

Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group

The Risk-Based Capital (RBC) Investment Risk and Evaluation (E) Working Group (Investment RBC) continued to review updates to a proposal from the Academy regarding the C-1 factor asset modeling for structured securities. The proposal includes a flowchart to determine whether an asset class needs to be modeled and whether securities within an asset class needs to be modeled individually to determine new C-1 factors. The proposal emphasizes that if an existing factor can be used then it should be used with modeling for new C-1 determination being a last resort. The proposal also supported a principles-based approach to the derivation of C-1 factors. A principles-based approach to RBC for structured securities will allow regulators flexibility in adapting to new structures as they emerge in the marketplace. The Academy reviewed six candidate principles with Investment RBC regarding this approach as follows:

1) The purpose of RBC is to help regulators identify potentially weak capitalized insurers, therefore changes that have a small impact on RBC ratios may not justify a change to the RBC formula.
2) Emerging risks require regulatory scrutiny.
3) C-1 requirements reflect the impact of risk on statutory surplus. Changes in accounting treatment will affect RBC.
4) C-1 requirements on a given tranche align with that tranche's risk.
5) C1 requirements on asset-backed securities should treat the collateral as a dynamic pool of assets.
6) C1 requirements for asset-backed securities should be calibrated to different risk measures where appropriate.

The Academy stated that it is currently in the data collection phase of this project. Discussions are ongoing.

© 2024 Crowe LLP

Investment RBC discussed a proposal to set an interim charge of 45% for a residual tranche until a more formal review by the Academy can be completed. This charged is perceived as a conservative factor with the understanding that it will be less precise than a charge that will be ultimately derived from the Academy's review. Interested Parties presented an interim analysis performed by Oliver Wyman supporting the case for the existing 30% charge for residuals as being conservative enough. The basis of Interested Parties analysis is that collateralized loan obligations and other types of asset-backed securities outperformed common stock. Investment RBC reminded Interested Parties that risk-based capital is a regulatory tool and that the consensus is that residuals are still a riskier investment vehicle than common stocks. ACLI asked for a 1-year delay in implementing the interim 45% charge as it is working on its own residual tranche project. Investment RBC denied ACLI's request and exposed the Oliver Wyman report for review and comment. However, Investment RBC still believes that a 45% charge is still proper as an interim factor until a more formal review is completed. Discussions remain ongoing.

Capital Adequacy (E) Task Force

The Capital Adequacy (E) Task Force (Capital Adequacy) received and discussed the reports given by Life RBC, P&C RBC, Health RBC, and Investment RBC. In addition, Capital Adequacy discussed the following items:

1. Received a report from the Risk-Based Capital Purposes & Guidelines Ad Hoc Subgroup regarding clarifying edits to the risk-based capital preamble. Clarifying edits reiterate the use of risk-based capital to aid in identifying potentially weakly capitalized companies, would not be appropriate to use for ranking and risk-based capital requirements and were developed based upon specific regulatory guidelines with regulatory needs in mind. Also discussed was potentially removing total adjusted capital and authorized control level from the five-year history page of the Annual Statement. This matter will be further discussed by Capital Adequacy at future meetings.

2. Received a report from the Asset Concentration Ad Hoc Subgroup regarding its work to discuss concepts and issues related to asset concentrations and review NAIC data for potential asset concentration considerations.

3. Received a report from the Geographic Concentration Ad Hoc Subgroup regarding its work to collect in-depth technical information on how to enhance the charges in the risk-based capital formula to provide state insurance regulators with an early warning signal regarding an insurer's insolvency.

4. Discussed residual structured securities for the property and casualty and health risk-based capital formulas. Three options were presented which were to keep the charge of 20%, follow Life RBC's exposed charge of 45% or wait until further analysis can be performed before proposing any change for residuals to the property and casualty and health risk-based capital formulas. Capital Adequacy chose to expose the 45% charge to be consistent with Life RBC's exposed charge of 45%.

5. Discussed a referral from Life RBC regarding the exposed treatment of conforming repurchase agreements to apply the same treatment to the property and casualty and health risk-based capital formulas.

Valuation of Securities (E) Task Force

VOS discussed and received feedback from Interested Parties regarding its proposal to the P&P Manual to update the definition of an NAIC Designation. The revisions include clarifying the meaning of NAIC designations, including their use, their purpose, and the risks that they address. The proposal consolidates the instructions defining an NAIC designation to create a single, uniform definition that includes updates addressing questions raised about the purpose of NAIC designations versus credit rating provider ratings. The exposed definition clarifies previous questions regarding credit quality, payments of interest and principal, tail risk, and non-payment risks. Discussions remain ongoing.

VOS also discussed and received feedback from Interested Parties regarding its proposal to amend the Purposes and Procedures Manual of the NAIC Investment Analysis Office (P&P Manual). This proposal gives discretion to the SVO to challenge an NAIC Designation submitted by a credit ratings provider through the filing exemption process which the SVO believes is not a reasonable assessment of risk for regulatory purposes. This amendment includes:

- A means to identify to insurers a filing exemption calculated NAIC Designation of concern.
- Sufficient notice to allow an insurer to provide additional information before any action is taken by the SVO.
- Establishment of a formal review process for the SVO to follow when challenging an NAIC designation assigned from a credit rating provider.
- Requirement for the SVO to provide insurers with full transparency into its assessment process.
- Establishment of a materiality threshold to remove a credit rating provider rating or security from filing exemption eligibility.
- A means to revoke filing exemption eligibility and provide notice that a full filing is required with a means to reinstate the filing exemption eligibility should conditions change.
- Provides for the identification and notification to insurers of securities under review through a new analytical department symbol UR.

Discussions remain ongoing.

© 2024 Crowe LLP

Big Data and Artificial Intelligence (H) Working Group

The group discussed its project plans for 2024, which include analyzing AI/machine learning survey results, improving bulletins, and developing a health insurance AI/ML survey. The group is also planning sessions with private passenger auto companies to update on their AI/ML activities and is overseeing projects related to monitoring AI's impact on insurance laws and regulations. The group is also coordinating educational content for regulators on Big Data and AI in insurance. The meeting also included presentations on research activities related to big data, AI, bias, and governance, and discussions on the increasing use of advanced data analytics in the insurance sector and potential risks.

A representative from the NAIC provided an updated on the AIS Model Bulletin. NAIC has created a model bulletin state adoption map, which is included on the NAIC website under the Working group and will be updated monthly. As of the date of the meeting, 6 state have adopted the model bulletin, in addition to the two additional states that had previously adopted something. Additional tools including reference grid and guide to implementation are also being generated.

Link to State Map: https://content.naic.org/sites/default/files/inline-files/2024%200405AI-Model-Bulletin.pdf.

Health Insurance and Managed Care (B) Committee

The Committee discussed its 2023 accomplishments and 2024 plans, focusing on priority issues like mental health, ground ambulances, network adequacy, and cost transparency.

The Long-Term Care Insurance (B) Task Force and the Long-Term Care Actuarial (B) Working Group are developing a single Long-Term Care Insurance rate review approach, aiming to finalize it by the end of 2024. The Committee also discussed the need for insurers to assist providers with cash-flow problems due to the cybersecurity attack.

The Consumer Information (B) Subgroup plans to create a guide on prior authorization in healthcare.

The Health Innovations (B) Working Group discussed the role of private equity in healthcare, highlighting its benefits and potential impacts on consumers and market competition.

The Committee heard a presentation on “Understanding the Basics of How Ground Ambulance Services Work in the U.S.” A representative from Georgetown University’s Health Policy Institute provided an overview of ground ambulance services in the U.S. the presentation pointed out the lack of consumer protections in the federal No Surprises Act against surprise bills for these services. There was an emphasis for the need for such protections due to limited patient choice, emergency situations restricting patient disclosure, and the lack of resources among public-sector providers to contract with ground ambulance services. Only 10% of patients use ground ambulance services to reach the emergency room and discussed the coverage provided by commercial insurers. An increase in the share of out-of-network use for ground ambulance services and potential surprise bills from 2014–2017 versus 2018 was reviewed. Presentation included suggested factors for policymakers to consider when protecting consumers from out-of-network ground ambulance services. State representatives spoke to what they are doing in their States regarding this risk.

The Committee heard a presentation on Consumer Perspective on the ACA’s Section 1557 Nondiscrimination Proposed Rule. NAIC representatives discussed the proposed changes to the ACA’s Section 1557 nondiscrimination rule from a consumer perspective. They provided a timeline for the rule and its previous versions, noting that the current notice of proposed rulemaking was issued in 2022 and the final rule is expected in the coming months. The panelists discussed changes related to the rule's applicability, discriminatory benefit design, and prescription drug access. They emphasized the importance of enforcement by state insurance departments, CMS, and the federal Office of Civil Rights to ensure compliance with the rule's requirements. They suggested that compliance can be achieved through health plan reviews, approvals, and complaints. They also highlighted the restoration of full sex nondiscrimination protections in the 2022 rule, in line with the 2020 U.S. Supreme Court decision in Bostock v. Clayton County. The panelists recommended that state insurance regulators ensure insurers are aware of the new protections, review plans for discriminatory benefit design, and monitor and enforce compliance through various means.

© 2024 Crowe LLP

Climate and Resiliency (EX) Task Force

An NAIC representative provided a federal update which discussed President Biden's proposed budget, which includes $23 million for addressing extreme weather events, and several pieces of legislation aimed at improving emergency preparedness and climate resilience.

The Task Force also discussed FEMA's 2023 National Preparedness Report, which found that states have not updated building codes to address climate change risks.

A representative of Marsh McLennan provided a presentation and discussed the role of insurance in mitigating climate risks and the importance of public-private partnerships in strengthening resilience. The main points of the presentation, include the testing of the industry's traditional risk transfer role, the complexity of the ecosystem related to climate adaptation, the emergence of early innovations and partnerships, and the potential for state insurance regulators and insurers to create an environment that advances meaningful adaptation. The presentation provided five recommendations for how the insurance sector and state insurance regulators can work together to equip communities with the tools and knowledge they need to face their futures. These recommendations include ensuring no community lacks the risk data and analytics to make risk-informed climate adaptation decisions, developing a science-based approach to documenting the risk reduction benefits of community-wide adaptation projects, creating incentives for insurers and other private firms to invest in adaptation projects, applying risk-based expertise to all policy and regulatory decisions and debates that affect the community risk profile, and developing a framework for leveraging the claims process as a unique opportunity to enhance the resilience of the residential and commercial building stock.

The Task Force also heard from Resilient Methow, a community in Washington that has successfully implemented a climate action plan.

© 2024 Crowe LLP

Special (EX) Committee on Race and Insurance

The Committee heard an updated from the different workstreams as follows:

Property/Casualty Workstream – The Workstream is engaging with other workstreams and committees on various issues, including bias, coverage gaps, and financial literacy. The Property/Casualty Market Intelligence (PCMI) data call will take place this year, with the Workstream focusing on the results and their impact on underserved communities later in the year.

The Workstream plans to investigate the growth of residual markets and other trends that may indicate market availability and affordability pressures, especially on underserved communities and communities of color. The Workstream received updates from jurisdictions on their efforts to assess bias and unfair discrimination in their markets.

Lastly, the Workstream will examine access to other financial structures, such as premium financing and structured settlements, and their impact on underserved communities.

Life Workstream –In February, the Workstream held a meeting where they distributed the Financial Wellness Resource Guide. This guide, serves as a resource for insurance departments, highlighting financial literacy initiatives in Washington, DC, Maryland, and Oregon. The Workstream plans to expand this guide to include initiatives and programs from other states and outside organizations.

Health Workstream – The Workstream provided an update on the items that they worked on in 2023 and charges that they are considering for 2024.

The Workstream will continue to support the Big Data and Artificial Intelligence (H) Working Group, including the development and analysis of a health AI/ML survey. The Workstream will also review Section 1557 of the federal ACA concerning discriminatory benefit design and re-energize the data collection discussion through learning sessions.

Update from Member Diversity Leadership Forum:

Representative from the NAIC provided an update on the New Avenues to Insurance Careers (N.A.I.C.) Foundation. Established in 2022, the N.A.I.C. Foundation is a not-for-profit organization based in Missouri that offers scholarships and internships to college students in underserved communities.

NAIC staff are actively getting involved at university to promote and educate students on the insurance industry to build awareness in young talent.

Diversity, Equity, and Inclusion (DE&I) resources are now available on NAIC Connect. This platform allows members to share DE&I best practices amongst other benefits.

Representative from the Member Diversity Leader Forum provided an update on the DE&I regulator HR 124 coursework. The course aims to develop a basic understanding of DE&I concepts, demonstrate cultural proficiency, and understand how DE&I applies to the workplace. Since the course's launch in February 2023, over 1,200 regulators have registered. As of March 2024, there have been 170 registrations. The forum is tracking participation by state and is looking forward to more states joining the leaderboard.

© 2024 Crowe LLP

Third-Party Data and Models (H) Task Force

The Third-Party Data and Models Task Force met to discuss two main charges. The first is to research and gather information on the types of artificial intelligence/machine learning models used by insurance companies that may require regulation. The second is to monitor and report on the regulatory efforts of third-party models at the federal and international levels. The Task Force plans to draft a regulatory framework in its second year.

A presentation was given on the Florida Commission on Hurricane Loss Projection Methodology (FCHLPM), discussing its work on catastrophe models and the importance of incorporating mitigation and building code changes. The FCHLPM conducts independent audits and reviews of each model, with a focus on protecting proprietary intellectual property. The Commission has outlined rules for insurers regarding rate filings and acknowledges the complexity of hurricane and flood loss projection models.

The FCHLPM uses a general framework for any peril, whether wildfire, earthquake, or severe storms, with changes made to address the different parameters specific to each peril. The audit requirements are proprietary items that the professional team reviews in-depth when they are on-site. A sensitivity analysis is also required to identify the major contributors to uncertainty.

The Commission received seven hurricane model submissions due on November 1, 2022, from various companies. On-site reviews were held from February to April 2023, with additional verification reviews in May and November 2023. Commission meetings to review models for acceptability were scheduled for June, July 2023, and January 2024.

The public is allowed under Florida law to make any comments and ask questions during a public meeting. The FCHLPM has had some representatives from Massachusetts and the Florida Keys attend public meetings. However, it is mainly during these public meetings when the FCHLPM is developing standards on how it is going to review the model and how it is setting the standards.

© 2024 Crowe LLP

Cybersecurity (H) Working Group

The Cybersecurity (H) Working Group adopted the Cybersecurity Event Response Plan (CERP). CERP is guidance for Department of Insurance for when they need to respond to a cybersecurity event.

This plan serves as a guide for the Department of Insurance (DOI) when they are required to respond to a cybersecurity incident. The document encompasses various aspects such as communication with different stakeholders, comprehension and receipt of notifications, necessary information that should be provided to a DOI, and a procedure for responding to cybersecurity events as outlined in Model #668. Additionally, the document provides a sample template that a DOI can utilize when seeking information from the party that has been breached.

The group also heard a presentation from the American Academy of Actuaries on its cyber-risk activities and its ongoing development of a cyber risk toolkit. CyberAcuView, an organization created by insurance industry leaders, is working to increase innovation and competition in the cyber insurance market and has collected over 30,000 claims since 2019, with payments exceeding $4 billion. The Cybersecurity Working Group plans to review the current Cybersecurity Supplement and discuss various issues in the coming year, including the impact of legacy systems, the EU's Artificial Intelligence Act, cyber education, and ensuring businesses understand their cyber coverage.

Property and Casualty Insurance (C) Committee

The Committee discussed various topics including risk classification, actuarial and technical rate filings, and the development of a service of process form for the surplus lines industry.

The Committee also discussed updates on state insurance laws regarding title data and title matters, the impact of mental health on the workers' compensation insurance market, and the 2024 work plan for the Cannabis Insurance Working Group.

The meeting also covered issues related to homeowners insurance markets, parametric insurance products, and the need for data on homeowners insurance at a ZIP Code level.

The Catastrophe Insurance (C) Working Group and the NAIC/FEMA (C) Advisory Group held a meeting on March 16, 2024, discussing federal legislation, disaster recovery, and resilience initiatives. The California Department of Insurance (CDI) and the Maryland Insurance Administration (MIA) shared their disaster preparedness and response strategies. FEMA plans to make changes to its initiatives and will include the FEMA Advisory (C) Working Group and the Catastrophe Insurance (C) Working Group in future discussions.

© 2024 Crowe LLP

Connect With Us

If you would like additional information, please contact:

Art Salvadori
Partner
Crowe LLP
+1 860 470 2117
arthur.salvadori@crowe.com

Heather Gagnon
Managing Director
Crowe LLP
+1 617 419 4137
heather.gagnon@crowe.com

© 2024 Crowe LLP