Testimony of

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On Behalf of the National Association of Insurance Commissioners

Before the

Committee on Banking, Housing, and Urban Affairs

United States Senate

Regarding:

Current Issues in Insurance

September 8, 2022

Introductory Remarks

Chairman Brown, Ranking Member Toomey, and members of the Committee, thank you for the invitation to testify today. My name is Kathleen Birrane and I serve as the Maryland Insurance Commissioner. As such, I am a member of the National Association of Insurance Commissioners (NAIC), where I serve on the Executive Committee and as the Chair of the Innovation, Cybersecurity, and Technology Committee, Vice-Chair of the Climate and Resiliency Task Force and Co-Chair of the Health Insurance Work Stream of the Special Committee on Race and Insurance. On behalf of my department, my fellow state and territory insurance regulators, and the NAIC, I appreciate the opportunity to testify today. I look forward to discussing the ongoing work of insurance regulators and the NAIC, as well as our views on several topics of interest to this committee and insurance sector stakeholders.

The U.S. insurance market is the single largest and most competitive in the world. State insurance regulators supervise more than one-third of global premium. As of 2021, the life insurance industry reported $1.1 trillion in total direct written premium and deposits.[1] Property and casualty insurance companies reported $798 billion in direct premiums written for 2021.[2] The U.S. insurance industry's cash and invested assets surpassed $8 trillion at the year-end of 2021.[3] Taken individually, U.S. states make up more than half of the 50 largest insurance markets.

State regulators share a mission to ensure a stable, competitive, and well-regulated insurance marketplace where U.S. consumers are well-informed and well-protected. States work hard to strike an appropriate balance between solvency and product availability and affordability, providing the risk financing that allows individuals and businesses to thrive, while preserving the ability of the sector to meet those financing obligations and pay claims. As we look ahead, we are addressing a number of evolving dynamics, such as the impact of inflation on pricing and claims, the rise of interest rates and the fall of investment returns, risk taking in insurers' investments, the intersection of race and insurance, climate risk and resilience, cyber risk, and the impact of technology on consumers, companies, and supervisors, among a host of others.

As a national system of state-based regulation, we collaborate closely on a regular basis and have long been committed to providing leadership across the entire spectrum of global and domestic insurance issues and activities. The financial strength of our insurance system was tested simultaneously by a global pandemic, historic natural catastrophes, financial volatility, and social unrest, and yet it persevered. In fact, an S&P Global rating report on the insurance industry found that North America appeared to be the "most resilient region" in the face of COVID-19.[4] That is because as our insurance markets grow and become ever more complex and sophisticated, our regulatory tools and priorities continually evolve. With that, allow me to update you on some of

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[1] https://content.naic.org/sites/default/files/inline-files/2021%20Life%20Annual%20Industry%20Commentary.pdf
[2] https://content.naic.org/sites/default/files/inline-files/2021%20Annual%20Property%20%26%20Casualty%20and%20Title%20Insurance%20Industry%20Report.pdf
[3] https://content.naic.org/capital-markets-bureau
[4] Dennis P Sugrue, *Down But Not Out: Insurers' Capital Buffers Are Proving Resilient In The Face Of COVID-19*, S&P Global Ratings, Sept. 22, 2020, at 9, *available at* https://www.spglobal.com/ratings/en/research/articles/200922-down-but-not-out-insurers-capital-buffers-are-proving-resilient-in-the-face-of-covid-19-11656633

the long-standing and new initiatives state regulators are working on through the open and transparent NAIC process.

Innovation, Cybersecurity, and Technology

State insurance regulators understand that insurers are increasingly using technology, big data, and predictive analytics to reshape the insurance marketplace and the way insurers approach risk and engage with consumers. These technological developments have the potential to improve how an insurer does business and can benefit policyholders. However, we recognize the complexity of these processes and the need to ensure they comply with state insurance laws and regulations designed to protect consumers. Insurance regulators are committed to striking the appropriate balance between encouraging innovation while maintaining the strong consumer protections embedded in our regulatory system.

To this end, last year, we formed a new NAIC Innovation, Cybersecurity, and Technology (H) Committee, which I chair, to address the insurance implications of emerging technologies, cybersecurity, and data privacy. The new committee, and its work, demonstrates our commitment to recognizing the significant impact data and technology is having in the insurance industry and ensures consistent and collaborative coordination among state regulators.

One of the H Committee's key projects is the establishment of a Collaboration Forum as a mechanism for multiple NAIC committees to coordinate their work on issues relating to technology, cybersecurity, and data privacy. The Collaboration Forum bring work groups together to identify and address foundational regulatory issues and to develop a common regulatory framework that can inform further work. The first project of the Collaboration Forum is on algorithmic bias, more specifically, how digital decisional systems and complex predictive models driven by artificial intelligence and machine learning can result in unfair and illegal discrimination in the insurance market. From such inclusive forums we are better able to make informed decisions on how to structure an appropriate regulatory framework around these emerging areas. For example, in the case of insurers' use of AI and algorithmic models for rating, underwriting and other decisional purposes, we are building on the AI Principles that the NAIC adopted two years ago to establish principles-driven guidelines and directives for the application of anti-discrimination laws to the use of artificial intelligence.

Additionally, the committee has several specialized working groups, including a Cybersecurity Working Group, coordinating, and communicating amongst state regulators on cyber events, trends, and overall industry cybersecurity posture. It is also developing tools to support state insurance departments' cybersecurity oversight and response duties. Our Privacy Protections Working Group is drafting updates to certain NAIC privacy models, which address insurance privacy protections on the collection, use, and disclosure of information gathered in connection with insurance transactions. Finally, our Big Data and Artificial Intelligence Working Group is analyzing data received through the NAIC's artificial intelligence and machine learning private passenger automobile survey and initiating similar surveys for homeowners and life insurance. In each of these areas, our work is focused on gaining a granular understanding of how AI/ML supported models are being used by insurers and their vendors across the insurance value chain and, most particularly, in making decisions that impact consumers. These surveys enable state regulators to identify and dig deeply into areas of regulatory concern, such as oversight of third-party data and model vendors and their work product.

State insurance regulators continue to upgrade safeguards to protect the security of data through standards, the examination processes, and model laws. For example, in 2017, the NAIC adopted the Insurance Data Security Model Law, which updated state insurance regulatory requirements relating to data security, the investigation of a cyber event, and the notification to state insurance commissioners of cybersecurity events at regulated entities. Thus far, 21 states (including the State of Maryland) have adopted the model, which covers nearly 3,000 insurers representing over 80 percent of the market by gross written premium. Further, the NAIC is continuing to update and strengthen guidance in its Financial Condition Examiners Handbook to draw more focus to cybersecurity during a financial exam. The NAIC continues to sponsor tabletop exercises with insurers, regulators, and law enforcement to explore cyber incident response and recovery. Maryland will host its tabletop exercise this October. Finally, we engage with state and federal counterparts on cyber security issues impacting our nation's financial infrastructure, through the Financial and Banking Information Infrastructure Committee (FBIIC).

Race and Insurance

Another area of significant activity for state insurance regulators is the intersection of race and insurance. In 2020, in the wake of a national call to action on race and inequality issues, the NAIC created a Special Committee on Race and Insurance, the first of its kind in NAIC history, to evaluate racial inequity in the insurance sector. Our formation of such a committee was emulated by others throughout the insurance sector leading to a national discussion on this important topic. The committee is focused on addressing access to the insurance sector and market barriers to the acquisition and use of insurance products by researching: (1) the level of diversity and inclusion within the insurance sector and developing recommended action steps for insurance regulators and companies that reflect a broad consensus among NAIC members; (2) diversity, equity, and inclusion best practices within state insurance departments and developing forums for sharing relevant information among states and stakeholders; and (3) barriers that may disproportionately impact people of color and/or historically underrepresented groups within the property and casualty, life insurance and annuities, and health insurance lines of business.

This year we have taken a particular focus on addressing barriers that prevent or limit access to the insurance market. As we identify these barriers, we are formulating targeted strategies that open up the insurance market to diverse and underserved communities. We firmly believe that if more consumers have the benefit of protections provided by quality products they and their families will be better protected and, in a position, to build generational wealth.

We are also pleased to share that the NAIC has formed the New Avenues to Insurance Careers Foundation. The Foundation will focus on fostering interest in careers in insurance and insurance regulation, with particular focus on students from underserved and diverse communities. We believe the lack of diversity in the insurance sector is one of those barriers to entry that we can help address. As a result, this is an important step that will advance one of the key goals of the Special Committee on Race and Insurance and support our members' efforts to increase diversity and inclusion in the regulatory community.

State regulators believe there should be equal access to insurance markets and products, and we must ensure that insurance companies are not unfairly discriminating at any stage of the insurance process, from underwriting to rate setting, to claims handling. The volume of data being created, combined with ever evolving computational techniques, have resulted in unprecedented data mining capabilities that fuel the development of predictive models used to support decision making by insurers. These AI/ML driven decisional systems can and do incorporate and amplify unfair bias which can result in unfair discrimination when applied to consumers. The Algorithmic Bias Project of the H Committee's Collaboration Forum is addressing unfair algorithmic bias, how it emerges, and the right regulatory approach to mitigation and detection. The Project recently held a multi-day collaboration session for state insurance regulators featuring academics and experts on this topic. These issues are complex and far reaching, and our work is necessarily measured and deliberative to avoid unintended consequences in the market. We are committed to continuing these important efforts and welcome your engagement.

Climate Risk, Natural Catastrophes, and Resiliency

Another top priority for the NAIC is climate risk and resiliency. State insurance regulators, through the NAIC, have had a climate-specific working group for more than a decade. In 2020, the working group evolved into our Climate and Resiliency Task Force, which serves as the coordinating NAIC body for discussion and engagement on climate-related risk and resiliency issues. It builds on existing efforts to address the economic consequences of natural disasters, including efforts to mitigate their toll. In addressing this evolving risk, we are focusing on the analysis of climate-related financial risk, the availability and affordability of insurance, and stakeholder risk awareness and engagement. We continue to advocate for resiliency and mitigation efforts that can reduce the risk of property loss. This keeps people in their homes and businesses open. Resiliency and mitigation are particularly important for communities that cannot afford to bear the burden of catastrophes and are most challenged to recover.

Our detailed work to address climate-related risks in the insurance sector is highlighted in our letter to the U.S. Department of the Treasury regarding its request for information for its upcoming climate report.[5] The NAIC also issued a report titled, "Adaptable to Emerging Risks: The State-Based Insurance Regulatory System is Focused on Climate-Related Risk and Resiliency."[6]

Of note, this year, our Task Force facilitated revisions to the Climate Risk Disclosure Survey for participating states, which is now aligned to the Financial Stability Board's Taskforce on Climate-related Financial Disclosure (TCFD). The survey, which was first adopted by the NAIC in 2010, is a risk management disclosure tool for states to require of their insurers. These disclosures help insurance regulators assess and evaluate insurance industry risks and actions to mitigate climate risk. Currently, 15 states are participating in the survey with nearly 80 percent of the market captured by direct written premium. This year, participating states will require licensed insurers writing at least $100 million in direct premium to publicly report a TCFD.

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[5] https://content.naic.org/sites/default/files/testimony-letter-response-fio-rfi-climate-financial-risk-211111.pdf
[6] https://content.naic.org/sites/default/files/climate-resiliency-resource-report-adaptable-emerging-climate-related-risk-resiliency_2021.pdf

State insurance regulators also continuously monitor the capital adequacy of insurers to ensure their ability to pay claims following catastrophic events. A fundamental tool for monitoring capital adequacy is the NAIC's Risk Based Capital (RBC) formula, which determines the minimum amount of capital an insurer should hold based on its risk profile. Regulators continually update RBC charges to address the evolving risk landscape. For example, in 2017, the NAIC expanded the risks quantified in the RBC formula to include a specific charge for hurricane and earthquake catastrophe risk in order to recognize increased exposure to catastrophic events. Most recently, the solvency workstream of the Task Force recommended that wildfires be added to the RBC framework for catastrophe risk exposures. In addition, based on the recommendations of the Task Force, the NAIC's Financial Condition Committee is considering specific enhancements to the solvency oversight tools used by state insurance regulators that will expand the evaluation of an insurer's exposure and response to climate-related financial risk, particularly in areas such as transition risk. The Task Force is also evaluating viable approaches to scenario analysis and stress testing for insurers as the data necessary to conduct such exercises becomes available.

The role that state regulators play with respect to climate risk involves more than just ensuring financially strong insurance companies and a viable market; it also includes ensuring strong and resilient homes and communities. Insurers are risk financers and, as such, are risk managers and risk mitigators. Leveraging that, our members are leaders in the effort to help state and local governments build more resilient communities. State insurance regulators encourage the use of innovative building materials, technology, and mitigation methods to reduce the impact of climate risk across a broad spectrum of natural catastrophe risks, and, most importantly, they work with insurers to design new and innovative products, and to establish partnerships with insurers that can help guide and finance community efforts.

Significantly, the NAIC has established a catastrophe model center of excellence within its Center for Insurance Policy and Research. This center will provide state insurance regulators with access to information, education, and training regarding catastrophe models, as well as conduct applied research to address regulatory climate risk and resilience priorities.

Financial Regulatory Oversight

Turning to our continued efforts to ensure effective insurer financial solvency regulation, we would like to highlight a few specific developments in addition to those already referenced. Over the past decade, state insurance regulators have made many enhancements to group supervision, informed by lessons from the financial crisis. We have expanded and strengthened our holding company statutes, implemented stronger corporate governance requirements, and now require larger insurers to file an Own Risk and Solvency Assessment (ORSA), which is a globally recognized report of all the risks posed to an insurance group, both from within the insurers, and from non-insurance affiliates regardless of their geographic location. Additionally, we have rolled out our Group Capital Calculation (GCC), giving regulators group-wide insight into capital allocation. Those improvements demonstrated their value over the last three years where even in the midst of historic market volatility and stress, the U.S. insurance sector proved to be financially strong and resilient.

Group Capital Calculation and Liquidity Stress Test

The NAIC's Insurance Holding Company System Regulatory Act and Insurance Holding Company System Model Regulation have historically provided state insurance regulators with the framework for insurance group supervision. In 2020, the NAIC adopted revisions to these models to create a GCC and Liquidity Stress Test (LST).

The GCC adds another analytical tool to state insurance regulators' toolbox on group supervision. It assists regulators in holistically understanding the financial condition of non-insurance entities. It provides key financial information on the insurance group, quantifies risk across the insurance group, supports transparency into how capital is allocated, and aids in understanding whether and to what degree insurance companies may be supporting the operations of non-insurance entities. The GCC was built to strengthen state regulation, but it also serves to satisfy the group capital assessment requirements of the Covered Agreements with the EU and UK.

The LST was developed to provide state insurance regulators with insights into a key macroprudential risk monitored by the Financial Stability Oversight Council (FSOC) and other jurisdictions internationally, but it also enhances group supervision. The LST requires insurers to file the results of a specific year's Liquidity Stress Test with the lead state insurance commissioner.

Credit for Reinsurance Model Law

With regard to reinsurance collateral, in 2017, the U.S. Department of the Treasury and the United States Trade Representative, concluded negotiations on an agreement with the European Union that eliminates U.S. collateral requirements for EU reinsurers provided certain regulatory criteria are met. In 2018, a separate Covered Agreement was signed between the U.S. and the UK, which mirrors the language from the agreement with the EU and has the same timing requirements for implementation. The EU and UK have agreed to recognize the states' approach to group supervision, including group capital, and eliminate any local presence requirements for U.S. firms operating in the EU. The U.S. and EU have five years until September 2022 to comply with the Agreement's provisions, and we are confident the states will meet our obligations.

In June 2019, the NAIC adopted revisions to the NAIC Credit for Reinsurance Model Law and Model Regulation that are intended to implement the reinsurance collateral provisions of the Covered Agreements. The revisions eliminate reinsurance collateral requirements for reinsurers that have their head office or are domiciled in any of the following "Reciprocal Jurisdictions": an EU-member country (or any other non-U.S. jurisdiction) that is subject to an in-force covered agreement, thereby addressing the elimination of reinsurance collateral requirements with U.S. ceding insurers; a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; and a non-U.S. jurisdiction recognized as a Qualified Jurisdiction that meets additional requirements consistent with the terms of a covered agreement. For reinsurers domiciled in Qualified Jurisdictions to obtain similar treatment as those jurisdictions subject to the Covered Agreements, they must provide to the states the same treatment and recognition afforded by EU countries pursuant to the EU/U.S. Covered Agreement. Therefore, our revisions include the requirement that the Qualified Jurisdiction must agree to recognize the states' approach to group supervision, including group capital. As of August 2022, 56 jurisdictions have adopted the 2019 revisions to the Credit for Reinsurance Model Law. With respect to the Credit for Reinsurance Model Regulation, 52 jurisdictions have adopted so far, and another four are pending (the District of Columbia, Florida, New Jersey, and the U.S. Virgin Islands). These numbers include America Samoa, Guam, and the Northern Mariana Islands who issued orders bringing them into compliance with the Covered Agreements.

Private Equity

Turning to an issue that has generated significant media attention and Congressional interest, state insurance regulators have been actively monitoring the recent growth of alternative asset management companies, private equity (PE) firms among them, in the life insurance sector.

It is important to emphasize that any insurer, regardless of its ownership structure, is subject to a comprehensive regulatory regime that is experienced at both micro-prudential and macro-prudential supervision. These existing regulatory requirements, designed explicitly to protect policyholders, have been refined and strengthened by lessons learned from past recessions, natural disasters, terrorist attacks, the 2008 financial crisis, and most recently the COVID-19 pandemic, all of which put our system to the test. Our system focuses on risks at the individual insurer and group level, with extensive disclosure, analysis, capital requirements, and regulatory authority to protect solvency, while promoting product availability and affordability. The form of ownership is generally irrelevant to the financial oversight and supervision. Where it is considered, it is generally a basis for enhanced supervision and reporting.

The state regulatory approach to PE firm ownership of insurers corresponds to what typically motivates PE investment in insurers and the concerns that arise from those motivations. PE and alternative asset manager interest in the insurance sector is driven by access to a large pool of assets, primarily in the form of mandatory reserves, that are available for investment. A decades long low interest environment has placed pressure on insurers to take more risk in a percentage of their investment portfolios in order to increase yield. PE firms and alternative asset managers believe that they are better equipped to structure investments that will provide that yield and generate better returns that will benefit both the insurer (and, hence, its policyholders) and the PE firm/alternative asset manager. While recognizing that potential, state regulators have also recognized the risks associated with such investments and have been proactive in addressing those risks.

State regulators first came together through the NAIC in 2013 to consider concerns arising from the proposed acquisition of certain insurers by PE firms. In light of what was then a new market dynamic, regulators premised approval of several early transactions on additional stipulations designed to provide greater safeguards in the form of greater regulator optics, oversight, and control with respect to financial transactions, investments, distributions, and reporting. A list of some of these stipulations was published by the NAIC as best practices and, in time, the additional stipulations were included in the NAIC's Financial Analysis Handbook, a process manual that is used by all states in performing their financial analysis of their domestic insurers, including analysis triggered by an acquisition or other significant financial event.

In addition, state regulators are particularly mindful of investment strategies by some PE-controlled insurers that may be more aggressive than traditional insurance asset managers. State insurance regulators continue to review and refine existing guidance to ensure their ability to assess and address the risks to the insurers. It should be noted, however, that some of these affiliated arrangements are not limited to just private equity owned companies. Increasingly, we have seen traditional life insurers also adopt some of these structures.

The NAIC's Macroprudential Working Group has developed a list of 13 regulatory considerations related to their ability to adequately assess risks posed to insurers because of recent increases in the complexity of investments and other developments. This list is being used to identify where existing disclosures, policies and/or procedures should be modified, or new ones created, to address any gaps based on the increase in the number of PE owners of insurers as well as the increase in asset managers' involvement in insurance, the increase of private investments in insurers' portfolios, and other causes. Our work here is focused on the activities in question, and therefore not limited to private equity backed insurers alone. The prolonged low interest rate environment has been challenging for life insurers in particular, who must take on enough risk in their portfolios to generate yield sufficient to pay claims without raising rates too high for consumers, while satisfying regulators' requirements to protect solvency and pay claims. We have extensive data reporting and analytical capability, to review and assess alternative investments or unique structures, and we are continuing to refine those tools as we speak. More specifics of this work are highlighted in our letter to Chairman Brown regarding his request for information on this issue.[7]

S &P Global's Rating Proposal

Another noteworthy issue we wrote to this committee about was S&P Global's proposal to revise its methodology for assessing insurers' financial strength, Insurer Risk-Based Capital Adequacy – Methodology and Assumptions.[8] While S&P ultimately withdrew its proposed approach and the NAIC typically refrains from commenting on the methodologies of the Nationally Recognized Statistical Ratings Organizations (NRSROs), this proposal compelled us to raise our concerns.

As background, insurer investments typically fall into one of two categories – investments assigned a rating by a NRSRO recognized by the NAIC, and investments that are not rated by a NRSRO and for which the NAIC's Securities Valuation Office (SVO) then performs a credit risk assessment on behalf of state insurance regulators. Most U.S. insurer investments fall into the first category and are rated by at least one of the NRSROs. Those investments are then assigned an NAIC designation for the purpose of identifying capital requirements associated with the risk. NAIC designations derived from NRSRO ratings are mapped directly to those NRSRO ratings with no additional analysis conducted by SVO staff. Further, because we do not conduct additional analysis, all NRSRO ratings effectively are treated equally by our system.

While this reliance on NRSROs may have benefits in terms of regulatory efficiency, given the extensive nature of the sector's holdings, it has been an area of concern for the NAIC. This concern has grown as discrepancies between various NRSRO ratings for the same security have increased in recent years, introducing greater potential for "rating shopping" by our sector. Indeed, the

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[7] https://content.naic.org/sites/default/files/government-affairs-letter-naic-pe-response-sen-brown-220531.pdf
[8] https://content.naic.org/sites/default/files/government-affairs-letter-s%26p-proposed-capital-model-house-financial-services-cmte-030922.pdf

NAIC's Valuation of Securities Task Force, comprised of regulators from around the country, has put this concern on its agenda for 2022.

As outlined in our letter, we had concerns with a key aspect of the S&P proposal. Specifically, for those investments not otherwise assigned a rating by the NRSROs (e.g., private placements, certain asset backed securities, etc.), the NAIC SVO staff do conduct a detailed analysis to evaluate the risk and develop an appropriate NAIC designation for use by state insurance regulators. This, coupled with investment oversight laws, gives state regulators comfort to allow or disallow such investments and ensure they are backed by sufficient capital for claims payment purposes. This is a critical regulatory function that allows the insurance sector to invest its substantial resources in a diverse cross section of the U.S. economy while prioritizing the strength of insurers to pay claims. We were troubled that S&P's (withdrawn) proposal lumped NAIC designations assigned by the SVO staff, designed by and for regulators, in with NAIC designations derived from ratings provided by S&P and its for-profit competitors, with no input from regulators or SVO staff. This could have disrupted a critical source of diversification and investment for the U.S. insurance sector.

International Engagement

On the international front, state insurance regulators and the NAIC continue to engage with international colleagues on a variety of important issues at the International Association of Insurance Supervisors (IAIS). Over the past few years, the IAIS has been working to finalize and implement key post-financial crisis reforms as well as pivot to better address emerging issues – a number of which I have already touched on: innovation and technology; cyber; diversity, equity, and inclusion; and climate and resiliency. As founding members of the IAIS, the NAIC and its members are pleased to continue sharing our expertise and knowledge, as well as learning from other jurisdictions as we collectively look to address the evolving risks, challenges, and opportunities in the insurance sector.

On financial stability, we contributed to developing the IAIS Holistic Framework for systemic risk in the insurance sector and welcomed its adoption in 2019, as it provides a variety of tools, fosters better understanding of potential risks and incorporates an activities-based approach rather than relying solely on an entities-based approach. As focus on macroprudential supervision has expanded, we have been pleased to share our domestic experiences on topics such as data collection and analysis, liquidity stress testing, and private equity. Jurisdictions around the globe, including the U.S., have made great strides to implement the Holistic Framework and having this better approach for systemic risk in place should convince the Financial Stability Board to discontinue identification of global systemically important insurers when it comes time to make such a decision later this year.

In addition to financial stability, another post-financial crisis key area of focus has been improving group-wide supervision. Another important IAIS milestone in 2019 was adoption of ComFrame, the Common Framework for Supervision of Internationally Active Insurance Groups, or IAIGs. IAIGs are defined as groups with more than $50 billion in assets or $10 billion in Gross Written Premium, operating in three or more countries and doing at least 10 percent of their business outside of their home jurisdiction. ComFrame helps foster better cooperation and coordination amongst those involved in supervising IAIGs. Since its adoption, work has been underway to review ComFrame and identify ways to incorporate it into our own regime in an appropriate manner, including revisions to our financial analysis and examiners handbooks.

One part of ComFrame yet to be finalized is the Insurance Capital Standard (ICS). Additionally, the U.S., with input from other interested jurisdictions, is developing the Aggregation Method (AM) as a comparable alternative to the ICS. Both the ICS and AM are intended to be applied to IAIGs.

The ICS is in the third year of a five-year monitoring period, the purpose of which is to monitor the performance of the ICS over time and inform any potential improvements before finalizing and adopting. Another key decision to be made at the end of the monitoring period is whether the AM provides comparable outcomes to the ICS. If deemed comparable, the AM will be considered "outcome-equivalent" to the ICS. This summer, the IAIS conducted a public consultation on detailed draft criteria that will be used to assess comparability. Such consultations provide transparency, which is something we push for at the IAIS, as well as an opportunity to hear directly stakeholders' views and receive their feedback, which should help shape revised criteria. IAIS members agreed that the comparability assessment should neither give the AM a free pass nor preclude comparability at the outset. Keeping this in mind will be crucial as the IAIS works to finalize the criteria later this year and to ensure a fair path forward for the AM by focusing on the outcomes produced by these two approaches rather than their conceptual differences.

The NAIC, as well as the U.S. Department of the Treasury and the Federal Reserve, have been clear with the IAIS, and international colleagues, that the ICS does not work for the United States market or our supervisory regime, and therefore states will be implementing an AM approach. The AM leverages proven legal entity reported available and required capital to produce a measure of group capital adequacy. For the state system, the AM is implemented as the Group Capital Calculation referenced previously, and for the Federal Reserve, it is the Building Block Approach. These complementary approaches provide a group lens on solvency while maintaining legal entity building blocks that allow supervisors to analyze, identify, and address capital deficiencies where they reside.

We, and hopefully the rest of Team USA, will continue to advocate for recognition of the U.S. approach to group capital. Absent recognition through either a comparability process or some other means, the IAIS will have failed in its goal of a global approach to evaluating group capital.

While we hope for the best outcome on comparability, as you have heard, this is just one of many projects, topics, and priorities at the IAIS, and we will continue to remain at the table and work together with our international colleagues on this broad array of issues in order to protect policyholders and contribute to financial stability.

Federal Policy Priorities

Finally, while state insurance regulators are putting significant energy into our regulatory priorities this year, we also would like to highlight several federal priorities.

First, we urge Congress to pass a long-term reauthorization of the National Flood Insurance Program (NFIP) prior to its September 30, 2022, expiration to provide certainty for insurance consumers. The NAIC's guiding principles[9] for NFIP Reauthorization for Congress emphasize the importance of long-term reauthorization, encourage greater private market growth to help provide consumers with additional choices for flood insurance products, and increase investment in mitigation planning. Insurance regulators support the inclusion of mitigation discounts – such as premium discounts or insurance rate reductions to persons who build, rebuild, or retrofit their properties to better resist flood events – and allowing individuals to set aside funds in a tax-preferred savings account for disaster mitigation and recovery expenses. We also support the Disaster Mitigation and Tax Parity Act (S. 2432) that would ensure that state-based disaster mitigation grants receive the same federal tax exemptions as federal mitigation grants. This would help provide greater incentives for homeowners to protect their homes from natural disasters. These actions, along with building and maintaining structures that incorporate mitigation strategies, have the potential to reduce future program losses and improve the financial condition of the NFIP.

Second, the NAIC and state regulators would like to thank Senator Tim Scott for introducing the Primary Regulators of Insurance Vote Act of 2022 (S. 4110), which would provide state insurance regulators with a vote on the Financial Stability Oversight Council (FSOC). Currently, state regulators have a non-voting seat on FSOC. The insurance sector – which historically has been a primary focus of FSOC – is the only financial services sector whose primary regulator is not a voting member. We encourage members of this Committee to support the Primary Regulators of Insurance Vote Act.

Finally, the NAIC is working on proposed legislation that would help protect policyholders during insurance receivership proceedings. Current law provides no deadline to the federal government for filing claims in an insurance receivership. This causes the proceedings to drag on for years and reduces recoveries for consumers. The NAIC is working on proposed legislation that would set a deadline for the federal government to file claims it may have against insolvent insurance companies. We encourage members of this Committee to co-sponsor and support the legislation once it is introduced.

Conclusion

As you can see, there is considerable activity by state insurance regulators on a variety of important topics in a variety of venues. The NAIC and state regulators continue our on-going efforts to improve regulation in the best interests of U.S. insurance consumers while fostering an innovative and competitive insurance sector. State regulation has a strong 151-year track record of evolving to meet the challenges posed by dynamic markets, and we continue to believe that well-regulated markets make for well-protected policyholders. Thank you again for the opportunity to be here on behalf of my fellow Commissioners who make up the NAIC. I look forward to your questions.

[9] https://content.naic.org/sites/default/files/inline-files/government_relations_161019_nfip_guiding_principles_0.pdf