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STATE INSURANCE REGULATION

Efforts to Streamline Key Licensing and Approval Processes Face Challenges

Statement for the Record by
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Mr. Chairman and Members of the Subcommittee:

We are pleased to discuss our observations to date of ongoing efforts to develop and implement more uniform regulatory processes within the insurance industry. We have long held the view that state insurance regulation can be enhanced through greater uniformity. In the past, we have encouraged insurance regulators to implement more uniform regulatory standards, usually in the context of financial oversight. Over the past decade, the National Association of Insurance Commissioners (NAIC), through its Accreditation Program, has made considerable progress in achieving greater uniformity among state insurance regulators in carrying out their financial solvency oversight responsibilities. More recently, competitive pressures stemming from further consolidation of industries in the financial services sector and enactment of the Gramm-Leach-Bliley Act (GLBA) has kept attention focused on regulatory reforms in the insurance industry.

Many insurance industry participants advocate more uniform standards as a way to help streamline regulatory processes in an effort to make conducting business on a multistate or nationwide basis easier. Of particular interest are those processes related to licensing individual producers (agents and brokers) who sell insurance, approving new insurance products that insurers wish to market, and licensing companies to sell insurance. NAIC has undertaken several initiatives designed to streamline these regulatory processes. As requested, this statement focuses on three initiatives, highlighting their status to date, the issues encountered, and their prospects for success. These initiatives are commonly referred to as:

- *Producer Licensing Reciprocity and Uniformity,*
- *Speed to Market, and*
- *National Treatment of Companies*.

NAIC's *Producer Licensing Reciprocity and Uniformity* initiative aims to streamline the licensing process for producers that desire to sell insurance in one or more states in addition to their state of residence. GLBA calls for a majority of states to either adopt uniform producer licensing laws or reciprocate with other states in the licensing process by November 2002.[1] If the states fail to act, GLBA establishes a body called the National Association of Registered Agents and Brokers (NARAB), which would take over producer licensing functions from the states. NAIC intends to satisfy GLBA's reciprocity provisions first, believing that reciprocity will be easier to achieve in the near term, followed by actions to improve uniformity in the producer licensing process. Preliminary indications suggest that NAIC may be close to certifying enough states to satisfy GLBA's requirements. However, some state insurance departments in relatively large markets may not be eligible for certification, as they are not willing to lower their standards on certain licensing requirements such as criminal history checks using fingerprint identification. Industry representatives and NAIC acknowledge that until the states with relatively large insurance markets reciprocate in the producer licensing process, this initiative will not be fully successful.

State regulators are also trying to streamline regulatory processes to help bring new insurance products to market more quickly. NAIC's *Speed to Market* initiative has focused both on developing a more centralized filing and approval process for some types of life and health insurance products and on improving existing state-based approval processes for other types of products. NAIC's Coordinated Advertising, Rate, and Form Review Authority (CARFRA), a regulatory entity composed of state insurance regulators, is the mechanism through which they have tried to implement the concept of a single point of product filing and approval. However, a recent trial of CARFRA with 10 participating states revealed that insurers were not attracted by it. Many observers commented that CARFRA failed because companies still had to satisfy numerous individual state requirements, or deviations, in addition to the basic CARFRA review criteria. NAIC is now attempting to overcome this problem by developing an interstate compact, a legal mechanism under which states would cede product review and approval authority for certain types of insurance products to a regulatory commission, allowing it to eliminate deviations the individual states are unwilling to remove on their own. Other *Speed to Market* improvement efforts are directed toward existing state-based systems. Chief among these has been the development and implementation of the System for Electronic Rate and Form Filing

[1] GLBA gave NAIC, in consultation with state insurance commissioners, responsibility for reviewing and certifying the states that have met the uniformity or reciprocity provisions. States that agree to reciprocate on producer licensing matters agree to accept the licensing decisions of other states, even though the requirements may be different.

(SERFF). This system offers insurers the means to submit information such as rate and policy form data on proposed products electronically to regulators to help reduce the processing time associated with product filings. However, industry representatives continue to emphasize their desire for more streamlined product reviews and approvals that go beyond technical improvements to the rate and form filing process.

NAIC's *National Treatment of Companies* initiative, renamed *National Treatment and Coordination*, aims to facilitate the licensing process for companies desiring to conduct business on a multistate basis. Many of the same issues encountered under the *Speed to Market* initiative have also surfaced in this initiative. NAIC and state regulators largely abandoned initial efforts to create a more centralized insurer licensing and oversight process in favor of improvements to existing state-based licensing processes. The primary accomplishment of these improvement efforts to date has been the implementation of a common insurer license application form, the Uniform Certificate of Authority Application (UCAA). Currently, NAIC and state regulators are trying to reduce the number of additional state deviations beyond the UCAA requirements. Again, technical enhancements to form submissions have outpaced efforts to develop common review and approval criteria for company license applications.

Nationwide Producer Licensing Reciprocity Is Unlikely Without Higher Uniform Standards

In response to GLBA, NAIC has expedited efforts under its *Producer Licensing Reciprocity and Uniformity* initiative to streamline and simplify the process for allowing producers licensed in one state to become licensed in other states. GLBA required that states enact certain reforms simplifying and bringing more efficiency to the insurance producer licensing process. Traditionally, agents licensed in one state generally had to meet the separate licensing requirements for each state where they wanted to sell insurance. Since licensing requirements differed substantially, this requirement imposed significant burdens on producers in terms of time, effort, and monetary costs.

To comply with GLBA, a majority of the states must adopt either uniform licensing requirements or reciprocity by November 2002. With reciprocity, states must accept the decision of another state to approve a license and may not impose any additional licensing requirements. GLBA also gave NAIC responsibility for determining whether a state meets the uniformity or reciprocity provisions. If a majority of regulatory jurisdictions (29 states and territories) do not meet either the uniformity or reciprocity provisions by November 12, 2002, GLBA provides for the establishment of NARAB by the federal government, which would take over producer licensing functions from the states.

NAIC developed and promoted the Producer Licensing Model Act (PLMA) to help states comply with GLBA's reciprocity provisions. To date, many states have passed laws based on PLMA attempting to comply with GLBA's reciprocity requirements. However, NAIC has not yet officially announced the number of "compliant states" based on its review of the states' laws and implementation plans. Meanwhile, some states with relatively large insurance markets have expressed concerns that will likely keep these states from implementing fully reciprocal producer licensing practices. These states appear reluctant to "lower" their standards on certain antifraud and consumer protection measures, particularly those related to conducting criminal background checks using fingerprint identification and bond requirements for producer applicants. NAIC continues to address these concerns, which were not fully resolved through PLMA, in its efforts to develop more uniform state producer licensing requirements.

Most States Have Recently Passed New Producer Licensing Laws

NAIC's PLMA provides a blueprint or model for state legislation to help bring states into compliance with GLBA, provided it is enacted without significant changes. PLMA sets forth the basic nonresident (out-of-state) licensing requirements that mirror the reciprocity provisions set forth in GLBA.[2] States adopting PLMA are expected to grant licenses to nonresident applicants who have met the basic reciprocity requirements. To address any additional state requirements beyond the basic reciprocity requirements, PLMA also contains a waiver provision (in Section 16) that grants insurance commissioners authority to waive additional requirements for nonresident applicants. For instance, in Texas, the Insurance Commissioner has been granted authority to waive a recently enacted requirement that nonresident applicants be fingerprinted, although the waiver can be revisited each year.

At its summer national meeting earlier this month, NAIC reported that 46 states had passed some version of the PLMA. As required under GLBA, NAIC must now certify the states that have met GLBA's reciprocity

[2]NAIC's PLMA stipulates that nonresidents shall receive a nonresident producer license if they: (1) are in good standing in their home state, (2) submit the proper request for licensure and pay the required fees, (3) submit the application for licensure they submitted in their home state, and (4) reside in a state that awards nonresidents producer licenses according to these same requirements.

provisions related to producer licensing. NAIC is using a two-pronged certification process that encompasses: (1) a legal analysis of each state's legislation and regulation pertaining to producer licensing, and (2) a review of checklists or surveys that are being completed by each state regulator, describing how the insurance department intends to carry out its producer licensing functions. The questions in the checklist generally focus on the state's producer licensing requirements, authority to waive requirements, and postlicensing requirements. As of June 12, 2002, NAIC had posted checklists from 41 states containing information on how regulators intended to implement their state's version of PLMA.

Concerns of Some States Are Likely to Prevent Nationwide Reciprocity

While preliminary indications suggest that NAIC is close to certifying enough states to meet the GLBA's legal requirement, other concerns remain that will likely prevent full reciprocity on producer licensing matters in all states. Factors that may prevent full reciprocity include some states' reluctance to waive certain antifraud and consumer protection measures and state implementation practices that may be considered nonreciprocal.

Although a large number of states have passed some form of PLMA, some states did not remove or waive certain licensing requirements that may conflict with GLBA's reciprocity provisions. Our review of the checklists submitted to NAIC and discussions with industry representatives and regulators showed that a few states do not appear ready to waive certain existing antifraud and consumer protection requirements. Most commonly, these nonresident licensing requirements are related to criminal history checks (using fingerprint identification) and bond requirements for some producers. NAIC officials had anticipated that these requirements would be major areas of disagreement among states.[3]

We observed that some states were reluctant to eliminate their existing requirement to conduct a criminal history check on nonresident applicants using fingerprint identification. For example, California's insurance regulators said that while the state supports the goals of streamlining and creating more uniformity in state licensing procedures, California would not eliminate its nonresident fingerprinting requirement (and other key

[3]Related to this debate, we also observed some confusion and ambiguity among state regulators over the extent to which additional state consumer protection measures will or will not be allowed under GLBA (Savings Provision).

existing requirements) in order to satisfy the reciprocity provisions of GLBA. The regulators believed that eliminating this and several other existing requirements to achieve reciprocity with other states would weaken their current standards and consumer protection measures. [4] In Florida, a recently enacted PLMA expresses the state's desire to meet the reciprocity and uniformity provisions of GLBA but also incorporates nonresident fingerprinting requirements under its consumer protection provisions.[5] According to industry officials, some states continue to maintain fingerprinting requirements despite the passage of some form of PLMA legislation. Some state officials acknowledged that waiving nonresident producer licensing requirements to satisfy GLBA's reciprocity provisions could theoretically open a window of opportunity for undesirable individuals to enter the insurance industry. For instance, states where insurance regulators do not have the authority to conduct criminal background checks on producer applicants could provide such access. We have previously expressed concern that many insurance regulators lack the authority to conduct criminal background checks on industry applicants (in contrast to regulators in the banking, securities, and futures industries) and have supported actions to help establish such authority.[6,7]

Bond requirements for nonresident producers, intended to protect consumers and states from financial losses resulting from errors or misconduct, have also surfaced as a problematic issue in many states. According to industry observers, bond requirements have proven difficult to change or remove because they are established in state laws and regulations. NAIC commented that such requirements may not be

[4]The six nonresident producer licensing provisions that California Department of Insurance officials cited as critical were those requiring: (1) criminal background checks using fingerprint identification on applicants, (2) that organizational applicants designate a natural person to exercise authorities granted by licensure, (3) that a broker maintain a bond on file, (4) that certain agents and solicitors file agency appointments, (5) approval of fictitious names that applicants intend to use for conducting business, and (6) that an agent selling long-term care insurance receive specified training.

[5]Florida also has many other requirements it does not plan to eliminate. State regulators believe their requirements are necessary to protect Florida's uniquely large elderly population.

[6]*Insurance Regulation: Scandal Highlights Need for Strengthened Regulatory Oversight*, (GGD-00-198, Sept. 19, 2000).

[7]*Financial Services Regulators: Better Information Sharing Could Help Reduce Fraud,* (GAO-01-478T, Mar. 6, 2001).

appropriate for a producer seeking to conduct business on a multistate basis, because they do not take into account current commercial realities (e.g., a producer's annual volume of business is not taken into consideration in determining the amount of a bond). NAIC officials have also voiced concern about the cumulative impact of individual state bonding requirements in the context of facilitating multistate producer licensing.

Another issue relates to the postlicensing requirements producers must satisfy after obtaining a license. Licensing requirements waived or removed to satisfy the reciprocity requirements of GLBA could resurface as postlicensing requirements, undermining the benefits of regulatory streamlining. In our review of the checklists submitted to NAIC, we found that many states said they have the authority to waive requirements relating to nonresident licensing. A handful of states also reported having postlicensing requirements that could limit or place conditions on nonresident producer activities. For instance, one state reported that it could waive evidence of company appointments[8] as an application requirement but would ask for this evidence as a postlicensing requirement before the producer could conduct any insurance activity. Overall, we did not identify any significant use of additional postlicensing requirements, but such practices could inhibit the implementation of regulatory reciprocity among states.

Nationwide State Reciprocity Hinges on Concerns and Participation of Larger States

Although NAIC may be close to certifying enough states to avoid the creation of NARAB, other efforts to achieve greater uniformity must be successful before nationwide reciprocity is realized. Some states, often those with relatively large insurance markets, intend to maintain certain antifraud and consumer protection measures even though such requirements may be inconsistent with GLBA's reciprocity provisions. For instance, the California Department of Insurance did not support the adoption of NAIC's PLMA, designed to satisfy GLBA's reciprocity provision, because "the Model Act does not include several important enforcement tools that are contained in California law presently." Industry representatives have emphasized that the larger states need to reciprocate (accept the licensing decision of other states) before producers can fully

[8] An appointment refers to the authority an insurer gives to a producer to transact insurance business on the insurer's behalf.

benefit from improvements aimed at streamlining the licensing process to conduct business in multiple states.

NAIC's Uniform Producer Licensing Initiatives Working Group is currently addressing a number of issues related to producer licensing to help states achieve more uniformity. The group's areas of work include those related to background checks, prelicensing education, continuing education, and definitions for limited lines of insurance. These efforts will also have to address the concerns of states that have been unwilling to "lower the bar" on their existing regulatory requirements. Achieving nationwide reciprocity in the area of producer licensing is tied to the success of these uniformity efforts. However, it remains uncertain whether or when more uniform producer licensing practices will be adopted that satisfy the concerns of those states with the largest insurance markets.

Product Approval Reforms Use Both Centralized and State-Based Approaches

Through NAIC's *Speed to Market* initiative, state insurance regulators are trying to streamline regulatory processes associated with insurance product approvals to make products available to consumers more quickly. A principal aspect of this initiative is to develop a more centralized product filing and approval process for certain types of insurance products that are sold on a multistate or nationwide basis. NAIC established the Coordinated Advertising, Rate, and Form Review Authority as a vehicle for providing insurers with a single point of filing and approval. However, insurers balked at the initial CARFRA trial, saying the process still incorporated too many individual state requirements beyond a common set of review criteria. In response, NAIC is now exploring the use of an interstate compact as a mechanism for overcoming the issue of having to satisfy the product review and approval criteria of each individual state.

Another aspect of this initiative encompasses efforts to improve existing, conventional state-based systems. A notable outcome of these efforts is NAIC's System for Electronic Rate and Form Filing, or SERFF, which is designed to expedite the mechanics of submitting product rate and policy form filings to regulators. Other efforts to streamline product review and approval processes focus on reducing differences among the states' product filing requirements and identifying best practices.

Industry Was Not Attracted to Initial Trial of CARFRA's Centralized Review Process

Many insurers, particularly those in the life and health insurance business, claim they have been at a competitive disadvantage in marketing and selling investment-oriented products because banks and securities firms—their primary competitors in these product lines—can seek regulatory approval from a single regulator. In response, insurance regulators have tried to devise a one-stop filing and approval process for products that will be sold in multiple states. CARFRA is the mechanism that regulators devised to offer the industry a single source for product reviews and approvals.

NAIC launched a pilot of the CARFRA product approval process in May 2001 with a single point of filing mechanism, national standards, and disclosure of any additional state requirements or deviations. The CARFRA pilot consisted of regulators from 10 states that agreed to review new product filings on three types of life and health insurance products: term life, individual annuities, and individual medical supplements. CARFRA's centralized product review and approval process was based on national standards along with consideration of individual state standards. NAIC's goals were to be able to process a product filing within 30 days of receipt to CARFRA if the product conformed to national standards and to process any "outlier" filings within 60 days—those product filings that conformed to the national standards but required further review against the variances for the states in which the products were to be sold. After CARFRA's decision, each state had the option of either accepting or rejecting the product. The CARFRA process also took advantage of technology enhancements utilizing SERFF.

Since the launch date, only two filings have been received under the CARFRA process. According to NAIC, industry representatives said that CARFRA was not attractive because too many state deviations to the national standards existed. In general, the larger states participating in the CARFRA pilot program had the most deviations, often requiring the submission of additional forms and documentation beyond that necessary to satisfy the common review criteria. In addition, industry observers said that CARFRA was abandoned because participation in it was voluntary and it had no legitimate enforcement authority as a regulatory entity.

Regulators Are Now Exploring Interstate Compacts to Centralize Product Approval Processes

After rethinking the CARFRA process, NAIC has considered several alternative methods of streamlining the product approval process. Instead of totally disregarding the CARFRA process, NAIC opted to restructure it as an interstate compact, building on the processes and national standards already developed. NAIC is currently finalizing a proposal for an interstate compact that would establish a commission known as the Interstate Insurance Commission for Annuities, Life Insurance, Disability Income, and Long-Term Care Products to set standards and streamline review and approval processes for such products. NAIC is currently soliciting input on a draft interstate compact and intends to finalize a version that state regulators can vote on at the fall national meeting in September 2002. The compact would require states to delegate product review and approval authority on certain products to the new commission. As well as reviewing and approving certain types of insurance products, this entity would also have the authority to set standards.

The proposed interstate compact focuses on annuity, life insurance, disability income, and long-term care products. State insurance regulators have recognized that some life and annuity products are fundamentally distinguishable from other types of insurance products (e.g., property and casualty), since many products sold by life insurers have evolved to become investment products. Consequently, these investment-oriented products face direct competition from products offered by depository institutions and securities firms. According to NAIC, competitive pressures have provided the impetus to develop more streamlined product approval processes for certain insurance products. NAIC hopes the commission established through an interstate compact will help the states implement a more streamlined product review and approval process.

The new commission would develop and implement national standards for certain life and annuity insurance products that would supersede the standards of member states that enact enabling legislation for the compact (compacting states). These participating states would then consider adherence to the national standards as having the force and effect of statutory law. Up to now, the states have not generally eliminated their individual deviations to a common set of review criteria. Compacting states must enact the compact into law, effectively ceding their authority to review and approve the specified insurance products to the commission. As proposed, the commission provides for the establishment of a 14-member management committee to manage the affairs of the commission. Six permanent committee members would represent the compacting states with the largest premium volume for annuities and life insurance products. Other compacting states would fill the remaining board member positions on a rotating basis. Geographic considerations would also be used in establishing the management committee. Additionally, the commission can establish product standards only after legislative enactment of the compact by 12 states, and can review products and render approvals or disapprovals on products only after legislative enactment of the compact by 26 states.

The impetus for exploring the use of interstate compacts appears to be an increased sense of urgency to resolve current product approval issues and a realization among state officials that regulators have gone as far as they can to streamline product approval processes after the CARFRA trial setback. To overcome industry objections to state deviations beyond CARFRA's review criteria, state lawmakers would have had to change their states' product review and approval requirements to a common, uniform set of criteria. NAIC concluded that an interstate compact presented the best way to accomplish uniform product review and approval standards along with a single point of filing mechanism.

The success of NAIC's *Speed to Market* initiative largely hinges on whether or not a significant number of state legislatures agree to cede their regulatory authority to a separate entity on certain insurance product standards and approvals. Proponents of interstate compacts believe such an approach could be successful if the compact entity develops fair rules, disclosure and due process requirements, sunshine rules (allowing regulators to revisit and decide whether to continue with an interstate compact approach after a specified date), and other informational filing requirements and processes. In contrast, other industry observers believe states have little motivation to change to a single point of filing process, in part because of considerable differences in approaches toward product approvals and consumer protection measures. It remains uncertain how many states will pass enabling legislation to establish interstate compacts for product approval functions or whether states with large insurance markets will embrace this approach.

Technology Enhancements Lead Improvements Efforts on State-Based Systems

NAIC's *Speed to Market* initiative has also included efforts to improve existing conventional state-based product review and approval processes. Regardless of whether a more centralized process is used for certain types of life and health products, existing state-based review and approval processes will continue to be used for property and casualty products and many other life and health products for the foreseeable future. NAIC 's improvement efforts in this area, better known as Improvement to State-

Based Systems, aim to enhance states' rate, form, and advertising review units by reforming and standardizing their approval processes.

One of the most notable advances in improving state-based product review and approval processes has been SERFF, which offers a standard electronic form for new product filings with the states. SERFF enables regulators to receive, comment on, and approve or reject insurance industry rate and form filings electronically. SERFF is becoming increasingly popular, though it is not available for all types of products in each state. At its summer national meeting, NAIC reported that 50 states and the District of Columbia were licensed to accept product filings through SERFF and that 474 companies were licensed to use the system. Several industry representatives we spoke with acknowledged the merits of SERFF but explained that it still does not resolve more fundamental issues related to differences in product review and approval processes across states, many of which are based on statutory requirements. Additionally, to the extent that some states do not fully utilize SERFF for all lines of insurance, the cost benefit is diminished for insurers if they have to maintain a second paper product filing system as well. NAIC has also developed the *Review Standards Checklist* that gives insurers information on state rate and form filing requirements in a common format by product line.

Other efforts under NAIC's *Improvements to State-Based Systems* focus on reviewing and eliminating "unnecessary" product filing requirements that have accumulated over time. In particular, NAIC and state regulators are trying to identify and reduce those regulations that no longer provide useful oversight value as well as "desk-drawer" rules that have evolved over time but that are not specified by statute, such as a requirement to use a certain type of form.

NAIC has also developed a model law aimed at streamlining the product approval process for commercial property and casualty insurance. The *Property and Casualty Commercial Rate and Policy Form Model Law*, adopted by NAIC in March 2002, would ease some of the current state rate and form submission requirements if adopted by the states. The model recommends a "use and file" regulatory approach for commercial rates and a "file and use" approach for commercial policy forms. Under this model law, notices of commercial rate changes would be filed for informational purposes only and not subject to approval. Commercial policy forms would be filed 30 days prior to their use and would be subject to regulatory review and approval. One industry association pointed out that regulators from two states with large insurance markets said the model would not be adopted in their states. Trade representatives we spoke with could not speculate on the model law's prospects for passage at the state level, but indicated that its chances for approval faced challenges because commercial rates have risen substantially in the past year, exacerbated further by the September 11th attacks.

"National Treatment" Efforts Now Aimed at Streamlining Insurer Licensing Processes

NAIC's initiative to foster "national treatment of companies" has been revised since its inception and is now focused on making improvements to existing state processes related to insurer licensing. This initiative and others were highlighted in NAIC's Statement of Intent: The Future of Insurance Regulation, endorsed by NAIC in March 2000 in response to GLBA and changes in the financial services sector. Initially, efforts under the *National Treatment of Companies* initiative were directed at centralizing oversight for multistate insurers. Now renamed *National Treatment and Coordination*, the initiative is currently aimed at streamlining state-based review processes and application submissions for company licenses. Many of NAIC's efforts under this initiative have focused on implementing technology to support a common electronic application form, the Uniform Certificate of Authority Application, or UCAA. Like developments under the *Speed to Market* initiative, enhancements to the process of submitting forms have outpaced efforts to develop common review and approval criteria.

Improvements in Licensing Insurers Favored over Broader Centralized Oversight

Initially, the *National Treatment of Companies* initiative encompassed movement toward a single, unified process for supervising multistate insurers. Oversight functions such as licensing reviews, financial solvency monitoring, and market conduct oversight would have been conducted through a more centralized, streamlined process. However, as we previously reported in 2001, state regulators largely abandoned the goal of centralizing regulatory oversight for multistate insurers under this initiative and focused their efforts on improving existing company licensing processes. [9] Some efforts to streamline other regulatory processes for large, multistate insurers have been shifted to other NAIC working groups. For instance, NAIC is undertaking an effort to better coordinate and execute financial analysis and examination activities

[9] *Regulatory Initiatives of the National Association of Insurance Commissioners*, (GAO-01-885R, July 6, 2001).

among regulators that oversee affiliated insurers from multiple states under a holding company structure.

From its inception, NAIC and state regulators tried to devise an operational concept for a “national treatment” program that would offer insurers a state-based system that could provide the same efficiencies in many areas of oversight as a federal charter for insurance companies. Many of the options considered were based on a centralized regulatory function that often allowed the insurers’ state of domicile to perform regulatory activities on behalf of the other states. State regulators ultimately rejected a national treatment concept covering a broad array of regulatory oversight functions based on deference to insurers’ domiciliary state. Furthermore, a planned test of a national treatment program in 2001 was cancelled. Activity on this initiative is now focused on streamlining existing state-based company licensing processes for the benefit of insurers that wish to conduct business in multiple states.

Application Enhancements Have Outpaced Efforts to Develop More Uniform Insurer Licensing Process

Current efforts under NAIC’s *National Treatment and Coordination* initiative are focused on developing more streamlined state-based application and review processes for insurer licensing. Much of NAIC’s work on this initiative centers on the implementation of a common electronic application form, the UCAA. According to NAIC, this form is now available for use in all states. Closely tied to the development of the UCAA are efforts to develop a more common, uniform set of review criteria for insurer applications.

The UCAA offers insurance companies a web-based, electronic application form to obtain a license in any state. Although the application would still be submitted to and reviewed by individual state insurance departments, the format would remain the same and could be submitted electronically. The UCAA provides formats for newly formed companies seeking a Certificate of Authority in their domicile state, for existing companies desiring to expand their business into other states, and for existing insurers that want to amend their existing Certificate of Authority.

While the technology supporting a common application form has been developed, regulators have yet to agree on a common set of review criteria related to insurer licensing. In the absence of uniform criteria, insurers must separately submit supplemental applications beyond the UCAA information to individual states, often in paper form. Industry representatives maintain that these separate application requirements negate some of the benefits of using the UCAA form rather than conventional state application forms.

NAIC and state regulators continue striving to develop more uniform review criteria for licensing insurers. In April 2002, NAIC provided documentation on 91 additional state-specific requirements beyond those in the UCAA application.[10] Again, as was the case with the other initiatives, a principal issue in developing a common set of licensing review criteria has been the challenge of addressing each state's individual requirements. Through its Accelerated Licensure Evaluation and Review Techniques (ALERT) program, NAIC and state regulators are trying to reduce these additional state requirements (by 40 percent this year), particularly those not based on state statutes. While efforts to implement UCAA have been successful from a technical perspective, its common use in conjunction with a more standardized licensing review process has not yet materialized and remains uncertain.

Conclusions

In this statement, we have discussed three of the initiatives outlined in NAIC's *Statement of Intent* for regulatory modernization—licensing nonresident producers (*Producer Licensing Reciprocity and Uniformity*), approving new products (*Speed to Market*), and coordinating the oversight of companies that operate in multiple states (*National Treatment of Companies*). While it appears that NAIC is close to certifying enough states to meet GLBA's reciprocity requirements before November 2002 to avoid the creation of NARAB, several states, including some of the largest, either will not have full reciprocity or will satisfy this requirement only by temporarily waiving—not eliminating—statutory requirements for nonresident producers. Similarly, the states' effort to streamline the product approval process—CARFRA—failed largely because, even in the 10 states that conducted the pilot, individual states would not give up state-specific requirements that they believed were important. Finally, as we pointed out in our earlier reports,[11] the original objectives of National Treatment—providing regulatory treatment for "national companies"

[10] At the time, NAIC's figures did not include additional requirements from one other state. NAIC's breakdown of these additional requirements revealed that 30 were required by state statute or regulation, 16 were characterized as administrative or informational, 15 were financially oriented, 10 were required by other state agencies, 10 were required for identification purposes (most often fingerprint identification requirements), and 10 others were miscellaneous.

[11] GGD-00-198 and GAO-01-478T.

comparable to that under a single federal regulator—were quickly narrowed to focus on the implementation of the UCAA, a single application form that companies can submit to multiple states when applying for a license to sell insurance. Even in the case of the UCAA, which has been adopted by all states, individual states have retained additional state-specific requirements because they believe that the UCAA, by itself, lacked some important features, such as fingerprinting of company principals.

While the specific details of state regulators' actions in each of these areas have varied, there have been similarities in the pattern of accomplishment. In each case, improvements, sometimes dramatic, have been made in efficiency by streamlining and applying technology, for example, standardizing forms and using technology to submit applications for licensing or product approval. There has been considerably less success in reaching agreement on the more substantive underlying issues. In each case, some states that consider themselves to be stricter or to have more consumer protections have been reluctant or have refused to lower their standards. If the objective of NAIC's agenda of regulatory reform and modernization is simply to have all states agree, then what has occurred thus far may be considered a failure. However, if the objective is more uniformity and reciprocity with an overall improvement in regulatory performance, then the holdout states may be the only defense against the weakening of both regulatory oversight and consumer protections. We do not suggest that every individual state deviation or objection is appropriate or desirable. However, if some states did not object to giving up fingerprinting, for example, as a means of conducting in-depth criminal and regulatory history background checks of agents or company owners and management, consumers would likely be more at risk and regulation would be less effective. In that case, neither uniformity nor reciprocity would represent regulatory progress.

For its part, we believe NAIC has made a concerted effort in promoting more uniform regulatory processes and requirements. NAIC has also demonstrated successes in implementing technology to improve efficiencies in licensing and product approval processes. Now, continuing success on many regulatory streamlining efforts desired by industry depend on state legislatures' willingness to trust other regulatory entities, either other states or entities such as the commission created by the compact, with certain regulatory functions and decision-making authority. Many states, often with the largest insurance markets, are not likely to take such a step unless they are convinced that other states and regulatory entities operate under a set of standards comparable to their own.

State regulators' efforts to date suggest that in certain areas, state regulators and NAIC may not be able to achieve uniformity through common consent (e.g., criminal history checks using fingerprint identification, uniform criteria for product approvals and company licensing, and others). To the extent this is true, ongoing federal oversight and, possibly, federal intervention (as in the case of GLBA's call for NARAB should state action fall short) may be needed to provide impetus for positive change and continuing improvement in state regulation of insurance.

Contacts and Acknowledgments

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