

CLIENT ALERT

Laser-Like Focus on InsurTech at NAIC Summer National Meeting

August 13, 2018

Regulators and the industry focused on InsurTech challenges and opportunities at the Summer National Meeting of the National Association of Insurance Commissioners in Boston. We report on three notable developments.

NAIC Staff to Assist States in Assessing Predictive Models in Rating Reviews and in Tackling Insurtech Legal Issues

The NAIC Casualty Actuarial and Statistical Task Force, with help from NAIC actuarial staff, will be drafting a White Paper late this year or early in 2019 and recommending best practices to guide state insurance departments as they review increasingly complex predictive models as part of rate filings, but regulators emphasized that they were not seeking to have the NAIC determine whether any particular rate filing should be approved, disapproved or modified. The Task Force's goal is to help departments, many of whom do not have experts on staff, assess those models more quickly and with greater consistency.

The NAIC Legal Department is working on model language for states to consider which would address insurers' requests for confidential treatment of their proprietary models as a type of trade secret while still allowing departments to appropriately share information among concerned state regulators. Presumably a draft will be circulated in advance of the next National Meeting in November. More broadly, the NAIC legal staff has been tasked with compiling current state laws affecting rebates and inducements, electronic signatures, and cancellation/non-renewal notices, which have been identified as impeding innovation, and regulators invited industry and other interested parties to suggest other topics affecting innovation which NAIC legal staff should analyze.

The NAIC will also shortly publish a listing of the designated insurtech contact at each insurance department.

Automated Life Insurance Underwriting Increasingly Prevalent

The Big Data Working Group of the NAIC's Innovation and Technology Task Force heard a presentation from insurance and financial services research firm LIMRA about the increasing use of automation and algorithms to underwrite life insurance, particularly as to classes of insureds and within specific ranges for policy face amounts. Sometimes the process is fully automated, typically where the applicant meets specifications for a standard policy with a relatively small face amount, but sometimes automation combines with a human reviewer to complete the process. Automated underwriting usually avoids the expensive and time-consuming need to collect bodily fluids, but companies are still finding it difficult to access electronic health records (EHR) of applicants which would make the process even faster. As of now, only USAA has been able to integrate those types of records with the automated underwriting of its military and ex-military applicants.

Regulators expressed general support but were concerned as to how much disclosure the insurers made to applicants about how the data was being used, what various sources of data the insurers were using, and what steps were insurers taking to safeguard confidentiality. Questions were also raised as to how valid the data and the algorithms were, and what methods had companies utilized to assess their validity.

Innovation and Regulation Discussed at CIPR Program

The Center for Insurance Policy and Research sponsored a lively panel discussion on “Can Regulation Keep Up with Innovation?” Moderated by NAIC CEO Mike Considine (former Pennsylvania Commissioner), the panel included Julie Sherlock from Boost Insurance, a start-up, Doug Ommen, Iowa Insurance Commissioner and Chair of the Big Data Working Group, Professor Chester Spatt of MIT Sloan School of Business, Nick Gerhart, former Iowa Commissioner and now CAO of Farm Bureau Financial Services, and Michael Pieciak, Vermont Commissioner.

Commissioner Ommen stressed that state regulators were open to innovation and willing to make reasoned “adjustments” to their rules, but that industry transparency and collaboration among regulators were key. Ms. Sherlock voiced concern that even though a number of states had enacted the same statutory language based on an NAIC model law, those states applied varying and inconsistent interpretations, making it difficult for her company and others in the insurtech space to navigate compliance. She specifically cited hoary “snail mail” requirements for cancellation and non-renewal notices as especially harmful to innovation because “time is the enemy” of insurtech innovations. In her view, exciting tech applications and consumer protection were not mutually exclusive. She stated that regulators and industry shared a set of goals, but those could only be achieved with sustained conversation and engagement on both sides.

The current and former regulators agreed that the digital age will require rules to change. For example, they commented that almost no consumers actually read a paper copy of a policy before buying it today—instead they typically click “ACCEPT” on a phone or tablet, so laws governing sales of insurance may need to adapt to that technology. Ommen said regulators needed to avoid being trapped by tradition—the sense that “we’ve always done it this way, so we have to do it this way.” However, a “regulatory sandbox” cannot mean *laissez faire*, cart blanche freedom for start-ups to ignore longstanding and valuable consumer protections.

Unlike NAIC Committees, Working Groups, and Task Forces, the discussion did not lead to any specific ongoing agenda items. Still, the interchange was valuable in illuminating what regulators and industry considered important as to insurtech and how to reconcile their differing perspectives.

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