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ERM, ORSA and Corporate Governance: The Small Company Challenges

by Carol S. Stern, B.A., FLMI, AIRC, ACS, Senior Consultant, First Consulting & Administration, Inc.

Executive Summary

Challenges for small companies in 2015 and beyond will require new focus on improving corporate governance structures, refining risk management governance, and ensuring that knowledgeable and qualified Board members make these decisions. The NAIC push to enact new model laws and regulations that do not exempt small companies or fraternal insurers will require some dramatic structural and procedural changes that take time and resources to implement.

Solvency Modernization Initiative (SMI)

The National Association of Insurance Commissioners (NAIC) continues its push for new regulation and laws to complete SMI. SMI is a post-financial crisis critical self-examination to update the United States companies' insurance solvency regulation framework. The SMI scope includes the entire U.S. financial regulatory system and all aspects relative to the financial condition of an insurer, and is not limited to the evaluation of solvency-related areas. The SMI focuses on key issues such as capital requirements, governance and risk management, group supervision, statutory accounting, financial reporting, and reinsurance.

New NAIC Corporate Governance Models

With the NAIC adopted models – the Corporate Governance Annual Disclosure Model Act (CGAD) and supporting Model Regulation – the NAIC has made an affirmative decision not to exempt small companies from any corporate governance requirements. In fact, the Working Group highlighted the need for small companies to focus on improving their corporate governance structure, in part by getting their risk management governance framework solidly in place with ongoing monitoring and reporting, and by establishing requirements for the Board as a whole to include the knowledge, industry experience and skilled qualifications to make decisions based on the risk tolerance and risk profile of the company.

Non-Prescriptive Guidance for Both ORSA and the Corporate Governance Models

The NAIC continues to allow companies complete flexibility in the implementation of model laws and regulations as long as the requirements are met. All of these models state a company's ERM program or Corporate Governance structure "can vary significantly based upon the size, type, complexity and structure of an insurer," which means that small

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companies may have an ERM or Corporate Governance structure that meets their specific requirements and may look nothing like large company structures.

The NAIC defines corporate governance "as structures, policies and processes through which an organization or entity is managed and controlled." The annual filing is important and gives the company an opportunity to describe its corporate governance and ERM structures, along with filing its updated policies and procedures for review. Regulators will use this information to increase their understanding of how a company governs its operations. Ultimately, the company should use both the ORSA Summary Report and the Corporate Governance Annual filing to give regulators a detailed and substantive overview of the strength of the company's risk management and governance framework. This transparency could help limit the scope and depth of future risk-focused analysis or examination, cutting exam and penalty costs to the company.

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Meeting the New Corporate Governance Challenge as a Small Company

The new model act and regulation will require all companies to tighten and document their governance structures, by-laws, charters, policies and procedures in order to assure that the Board of Directors and any of the Board committees have been assigned the ultimate responsibility for governing the insurer. An annual filing is required to document how the corporate governance of the Company is providing proper leadership, including documentation of the roles and responsibilities of a risk management senior team, the Board, the CEO and Chairman of the Board. The NAIC models require a governance structure that facilitates the Board and key executive roles to act in good faith and in a manner the Director or Board of Directors reasonably believe to be in the best interests of the Company.

New Qualification Requirements for Board Directors

The most significant challenge for many small companies including small fraternal and mutual insurers (who are not exempt from these models) may be the qualification requirements for Board members. Regulators will be reviewing the make-up of the Board for appropriate background, experience and integrity to fulfill their prospective roles. The Board as a whole should possess the core competencies needed to oversee the insurance company. Core competencies cited by the models are; accounting or finance; business judgment; industry knowledge; management; leadership; as well as vision and strategy. The Board will also need to create suitability standards (position descriptions) for officers and key persons in control functions like the CEO, the Board Chair and the committee chairs, to assure they have the appropriate expertise, experience and professional integrity to adequately fulfill their responsibilities. The Company charter or other Board documents must clearly articulate the responsibilities of the Directors, including such basic requirements as attendance at Board meetings and reviewing meeting materials in advance in order to ask questions and evaluate the issues knowledgeably.

Regulators will be looking for Corporate Governance Guidelines that clearly document established key governance principles that address at least the following:

- Board leadership
- Qualifications for Directors
- Director independence
- Director responsibilities
- Structure and functioning of Board committees
- Charters for those committees
- Board access to management and advisory resources
- Director and management compensation
- Director initial and continuing education
- Board and management performance evaluation
- Management succession

In larger companies, the Board often creates a Corporate Governance Committee to handle these responsibilities, but smaller companies might not have the breadth of Directors able to serve on this type of committee. In that case, a small company Board will need to handle these functions, and with the right charters, Corporate Governance Guidelines and leadership, small companies can also manage these requirements as suitable for their organization.

Changes the Adoption of the Own Risk Solvency Assessment Model Act (ORSA) Brings to Financial Examinations

The other area of governance that the NAIC has included in both ORSA and CGAD materials is the way reporting responsibilities should be organized for each critical risk area of the Company. With the adoption of the ORSA Model Act, regulators intensify their regulation of Enterprise Risk Management (ERM), requiring strong governance structures functioning at all corporate levels and founded on an ERM program.

This requirement will be another challenge for small insurers, since ORSA requires a holistic approach to risk governance with clearly defined and articulated roles, responsibilities and accountabilities. Under ORSA, the Board of Directors is ultimately responsible to establish and maintain a risk management policy by assessing and approving

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risk decisions made by the Risk Committee and approving the annual ORSA risk report, as well as establishing the Company's risk appetite statement and related risk tolerances. This does not mean that the day-to-day risk decisions are to be made by the Board, but that the Company will have a risk governance team with responsibility for daily oversight. Risk management as well as development of key risk indicators, risk incident reporting, and applicable policies and procedures for the Company are critical to help avoid or mitigate those risks. Under ORSA, the Chief Risk Officer (CRO) or ERM Director will run this risk governance team and report to the Board in a regular, transparent manner. The Board will set the overall risk policy and make key risk policy decisions.

The requirements for clearly defined roles can also be challenging for a small company that may not have the resources to hire a CRO. For small companies, making this role a part-time position can be successful as long as the responsibility and authority to run the risk governance team and implement a corporate risk policy is assigned and the ERM framework is fully established.

ORSA also requires that the insurer's strategic business planning process be integrated fully with the Company's Enterprise Risk Management decision-making. Some regulators have indicated that Board members may be interviewed as a part of a risk-focused examination based on the ORSA report filing. Unlike in the past, Boards must have sufficient training to make sure they understand their new ORSA role with risk governance responsibilities.

The risk governance team could be a new function of an existing senior management team, or a new team comprised of senior officers with ultimate responsibility for decision-making in their roles as head of key company departments. For a small company, the President or CEO will want to create a team with at least one other officer and not take sole responsibility for the risk governance development and ongoing improvement.

With the new ORSA governance requirements, Department of Insurance financial examiners will now review the overall risk-management function of an insurer and the ORSA report-development process and work papers. The exam will cover the insurer's processes for identification of risks throughout the company that could threaten solvency, risk-mitigation strategies, internal controls, and control implementation.

Regulators want to understand the frequency by which information on each critical risk area is reported to and reviewed by senior management and the Board. Reports will include:

- Risk management processes
- The review and approval of the ORSA summary report if applicable
- The actuarial function on the adequacy of reserve provisions
- The prospective solvency position of the insurer
- Investment decision-making processes
- Reinsurance decision-making processes
- Business strategy/finance decision-making processes
- The compliance function
- Financial reporting/internal audit processes
- Major marketing initiatives
- Results of negotiations and information on reasonably foreseeable prospective risks
- Market conduct decision-making process

Again, in larger companies, the Board will create an Audit, Risk and Compliance Committee or potentially three different committees with charters that will assist the Board in fulfilling its oversight responsibilities for the financial reporting process, enterprise risk management program, system of internal controls, audit process, and Company compliance with laws and regulations.

How does the NAIC regulate insurers' corporate governance today?

The regulatory corporate governance framework today in the U.S. is an exception-based model. This non-prescriptive way to help ensure effective governance for U.S. insurance companies is different than the European model prescribed in Solvency II. The NAIC model laws and regulations are based on a conservative framework for accounting, regulatory approval of significant transactions, restrictions on investments, and ongoing monitoring of financial indicators of concern. The regulators monitor for expected outcomes and if these expectations are not met, they choose from a wide range of tools to encourage and/or require corrective actions. They do not prescribe how these insurers implement laws or regulations, as implementation methods differ based on the size and structure of the insurer. This framework has worked successfully, and the ORSA model and the draft Corporate Governance Models are all written with the same non-prescriptive perspective.

The non-prescriptive framework is an excellent fit for small companies since the regulators expect that they will use techniques that are appropriate to the nature, scale and complexity of their risks, in a manner that adequately supports risk and capital decisions. These instructions in the ORSA Guidance Manual set up an expectation that small companies' governance and ERM programs may look different than large companies' but as long as each structure meets the needs of the Company and facilitates compliance with the requirements, both will be judged adequate by the regulators.

Summary: Small Companies Can Meet These Challenges

Small companies will be able to implement new Corporate Governance

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Guidelines, criteria for selection of Board members, position descriptions for key Board members and senior executives, and charters for committees like the Corporate Governance Committee or the Audit, Risk and Compliance Committee. Implementing these changes in a small company may take guidance and assistance from outside consultants, but will give them the added benefit of embedding an ERM framework into their governance structure. Because the new NAIC models tie ERM, ORSA and Corporate Governance together into one holistic approach for managing an insurance company, the results of implementing the framework will differ for a small company, and the impact may be felt even more strongly.

The importance of moving toward these new requirements should not be underestimated, since the changes in any company will take time and resources. The NAIC adopted the CGAD at the Fall National Meeting on November 19, 2014. The intent is for the states to pass legislation and implement regulations for these to become effective January 1, 2016, with reporting to begin June 1, 2016. The benefit for all companies will be a new governance framework that ties together risk management, strategic planning and effective governance in a new way that will align the U.S. financial services industry with the existing European models to provide stronger solvency requirements in related economies worldwide. ■

Carol Stern is a Senior Consultant at First Consulting & Administration, Inc. and is an intrinsic member of the operational compliance, enterprise risk management (ERM) and corporate governance consulting practice. With 30 years of experience in the industry, she brings a Chief Compliance Officer perspective to the practice for corporate governance, insurance, annuity, retirement and wholesale broker dealers. For ten years, she coordinated the compliance risk management function in implementation of policies, procedures and reporting to establish an ERM program including development of key risk indicators and a formal risk assessment process.

'National Association of Registered Agents and Brokers Reform Act of 2015' Signed Into Law

by Kevin G. Fitzgerald and Nicholas R. Paquette [1]

The new year has brought substantial changes to the future of nonresident insurance producer licensing regulation. On January 12, 2015, President Obama signed into law H.R. 26, which includes the National Association of Registered Agents and Brokers Reform Act (the "Act").[2] The Act creates a new process to achieve nonresident licensing reciprocity for "Insurance Producers." [3] This article is intended to provide an overview of the Act, its effect on producers, and how it impacts State regulation of nonresident producer licensing.

The Act amends the Gramm-Leach-Bliley Act and establishes the National Association of Registered Agents and Brokers ("NARAB" or "Association"). The Association will be an independent nonprofit organization established under District of Columbia law that will "provide a mechanism through which licensing, continuing education, and other nonresident insurance producer qualification requirements and conditions may be adopted and applied on a multi-state basis without affecting the laws, rules, and regulations, and preserving the rights of a State, pertaining to:" (1) licensing and other qualifications for insurance producers that are not members of the Association; (2) resident or nonresident producer appointment requirements; (3) supervising and disciplining resident and nonresident insurance producers; (4) establishing licensing fees for producers; and (5) prescribing and enforcing laws regulating the conduct of producers. Put simply, the Association provides a structure for establishing nonresident licensing reciprocity for members throughout all 50-states, the District of Columbia, any territory of the United States, and Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands (individually referred to herein as "State", and collectively the "States").

What Does This Mean for Insurance Producers?

At the outset, we note that producer participation in NARAB is entirely optional and therefore the Act will have no effect on those producers who choose not to obtain membership in the Association. These nonmember producers will remain subject to the nonresident licensing requirements in all states in which they choose to do business. Those insurance producers that choose to become members of the Association, however, may find that the process to obtain multi-state licensure more efficient than has historically been the case, particularly

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2 H.R. 26, 114th Cong. (2015).

3 The Act defines "Insurance Producer" to mean "any insurance agent or broker, excess or surplus lines broker or agent, insurance consultant, limited insurance representative, and any other individual or entity that sells, solicits, or negotiates policies of insurance or offers advice, counsel, opinions, or services related to insurance."

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in the context of entity licensing where there is somewhat less uniformity among the states.

There will be multiple classes of membership in the Association, including, but not limited to, business entity producer, depository institution, and licensed individual producer. Any insurance producer licensed in its home state is eligible to become a member, unless the producer's home state license is currently suspended

Kevin G. Fitzgerald

Nicholas R. Paquette

or revoked. Additionally, the producer is required to have completed a national criminal background check within the two years prior to applying for membership. The Act allows the Association to establish additional membership criteria for producers, which may include personal qualification, education, training, and experience standards. However, no qualification for membership may be less protective to the public than those found in NAIC Producer Licensing Model Act, and the Association may consider the highest levels of producer qualifications established under various state licensing laws.

Membership in NARAB will authorize the insurance producer to sell, solicit, and negotiate insurance in any state for which the member pays the licensing fee set by the State for any line or lines of insurance specified in the home state license, and will serve as the equivalent of a nonresident insurance producer license in any jurisdiction the producer designates. Membership in NARAB will also exempt member producers from continuing education requirements in every State but the producer's home state. However, members will be subject to continuing education requirements established by NARAB for members, but NARAB is prohibited from requiring members to satisfy continuing education requirements that duplicate those satisfied in the member's home state.

What Does This Mean For States?

The Act directly affects State regulation of nonresident producer licensing in numerous ways. First, States (other than the producer's home state) are now prohibited from imposing licensing qualifications on the members (including personal qualification, education, training, experience, residence, bonding, etc.) that differ from the criteria for membership in the Association. States may also no longer impose any requirement that the member be licensed, registered, or otherwise qualified to do business or remain in good standing in the State, including that the producer register as a foreign company with the Secretary of State.

In addition to the foregoing, the Act directly affects commercial property and casualty producer licensing. Notably, the Act prohibits States from imposing any licensing, registration, or appointment requirements upon an Association member, or requiring a member to be authorized to operate as an insurance producer, in order to sell, solicit, or negotiate insurance for commercial property and casualty risks to an insured with risks located in more than one state if the member is licensed or authorized to operate in the State where the insured maintains its principal place of business and the contract of insurance insures risks located in that State.

States will also be prohibited from impeding the activities of, taking any action against, or applying any provision of state law or regulation arbitrarily or discriminatorily to any insurance producer because the producer is or plans to become a member of the Association.

Finally, States may not impose any requirement that an Association member pay licensing fees that are in any way different from those fees that are required to be paid by those that are not members, or impose any continuing education requirements on nonresident insurance producers that are members of the Association.

Notwithstanding these limitations under the new law, the States maintain what is arguably one of, if not the most important, insurance regulatory functions of the State—market conduct regulation and enforcement. As previously discussed, the Act only applies to marketplace entry and therefore the States will continue to regulate and monitor market conduct, unfair trade practices, and consumer protection. Accordingly, regardless of a producer's membership status in the Association, the producer must continue to observe each state's laws and regulations pertaining to market conduct and unfair trade practices, and each State is free to enforce these market conduct and consumer protection laws and regulations on all producers transacting business in the state, including those that are members of the Association.

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State regulators may also benefit from the information sharing provisions included in the Act. Under the new law, the Association is authorized to share documents, materials, and other information with States and the National Association of Insurance Commissioners (NAIC), and establish a database or utilize the NAIC as a database for use by the Association

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or the States for the collection of regulatory information concerning producers. Moreover, the Association is authorized to establish a clearinghouse for use by the Association and the States through which members may disclose their intent to operate in one or more states and pay the applicable licensing fees.

Although the States will lose some control over nonresident producer licensing once the membership provisions take effect,[4] State regulators will benefit from the decreased administrative burden and cost of having to review and process nonresident producer licensing applications and associated documentation. Also important, States will continue to receive their licensing fees and will continue to regulate and monitor market conduct. ■

Kevin G. Fitzgerald is a partner and insurance lawyer with Foley & Lardner LLP. His practice is concentrated in the fields of corporate and regulatory insurance law, premium taxation, privacy legislation, captive insurance matters, agent and agency licensing and reinsurance transactions. He is a member and former chair of the firm's Insurance & Reinsurance Industry Team and is a member of the Finance & Financial Institutions; Transactional & Securities; and Privacy, Security & Information Management Practices, as well as the Health Care Industry Team.

Nicholas R. Paquette is an associate and insurance lawyer with Foley & Lardner LLP. He is a member of the Insurance & Reinsurance Industry Team. His practice is concentrated on corporate and regulatory insurance and reinsurance law.

4 Membership provisions of the Act take effect on the later of: (1) the expiration of the two-year period beginning on the day of the enactment of NARAB (January 2017); or (2) the date of incorporation of the Association.

From the President's Desk

by Parker Stevens, CIE, AMCM, Current IRES President

In my last article of the Regulator I announced that IRES was just about to finalize our RFP process and contract with a new management firm. Well I am pleased to announce that the IRES Board of Directors has selected Synergos to continue on as our management firm for the next three years. We are certainly pleased to have them back and know that they will continue to provide a high quality service for our organization and members. I also want to thank the RFP Committee for their time and efforts as this was no small task.

I want to also say a very special thank you to former Executive Committee Member and Board Member Erin Mirza (WI) for all her hard work and leadership over the last few years. Erin has decided to make a career change and leave insurance regulation. As a result, she had to resign from both the Executive Committee and the Board of Directors. We certainly hate to see her go but wish her the very best as she embarks on a new adventure.

With Erin's resignation the Board of Directors voted Martha Long (MO) to fill the remainder of Erin's term on both the Executive Committee and Board of Directors. For those that don't know Martha, she has 20 years of experience with the Missouri Department of Insurance. She joined the Department as Legal Counsel in the Legal Section; transferring to the Market Regulation Section as a Research Analyst. She became a Life and Health Market Conduct Examiner in 2000. Martha is currently an Examiner-In-Charge, conducting and supervising property and casualty examinations with a focus on title insurance and credit insurance lines. Martha has been a member of IRES since 1995. She has served on the A&E Committee, the Education Committee and the Designation Assistance Sub-committee. She was elected to the IRES Board of Directors in 2012 and was elected to the Executive Committee in December 2014. She has served as Vice Chair of the Education Committee, Vice Chair of the MCM Committee, and is currently the Chair of the Membership and Benefits Committee. Martha is a member of the Missouri Bar Association and has earned the designations of CIE® and MCM®. So please join me in welcoming Martha to the Executive Committee; we are so excited to have her on the team!

Finally, I want to highlight the IRES Foundation 2015 National School on Market Regulation which is April 12-14, 2015 at the Hilton La Jolla in San Diego, CA. The IRES Foundation does a great deal for IRES, from helping fund educational events and scholarships to attending our CDS and helping fill panels. Their school offers many excellent educational sessions and events to network with others in the insurance industry. They will have not only industry compliance professionals in attendance but many fellow state regulators including some Commissioners. Please try to add this wonderful event to your schedule, and I hope to see you in San Diego. For additional information on their school please visit their website, http://ires-foundation.org/2015-school.

Hope to see you all at the IRES Foundation School and the IRES CDS.■

Parker Stevens, IRES President
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"To Converge, or Not to Converge," That is the Question for Regulators and Legislators

And the answer may prove vexing on this increasingly dramatic financial services stage.

by Martin F. Carus

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Whether 'tis nobler in the mind to suffer the slings and arrows of outrageous fortune...." is beside the point for financial services decision makers.

The question here is whether there are "noble minds" pondering this question as respects current efforts to devise global capital standards for insurers. I'll leave the answer to you, the reader after we look at the question further.

First, though, consider whether there is convergence as regards:

- Measuring weight, liquid, distance and temperature;
- Languages, spelling, alphabets and language characters;
- Culture, Art and Music;
- Ethics (Huh, are you kidding!);
- Governmental structure, legal codes;
- Automobile driving conventions;
- Electricity;
- Money;
- Religious beliefs.

In fact, noting the last item on my list, there isn't even convergence as to what text makes up the "Old Testament." Even that is not "converged" -- after thousands of years no less! Almost every one of the above items, if converged, would generate much greater cost efficiencies than anything to do with the assessment of capital adequacy of insurance groups. Efforts to do so have failed. Just walk a few meters through the challenges.

Now, is it likely that the first globally accepted convergence should be relative to insurer group capital standards?

There seems to be this inexorable need on the part of financial system overseers to converge assessment systems of insurers, which, in turn, would require a convergence of accounting standards used by insurers. If the latter is not achieved (and FASB and IASB have not been able to do so), how can the former be implemented? Some suggest allowing the use of different measurement standards and relying on outcomes. However, outcomes can only be gleaned after the fact and the purpose of assessment schemes is to direct the outcomes.

In any case, the effort regarding a global standard for financial assessment of insurers moves on and on. This need seems to have come about because the overseers have just realized that the financial services industry, and the insurance segment in particular, has become, or is, global in nature. That seems a startling discovery noting that several large banks and insurers have been operating internationally for decades if not centuries.

A second factor emanates from the financial downturn during 2008-2009. They have concluded that certain institutions pose systemic risk. But, exactly what is "systemic risk?" In 2010, the Dodd-Frank Act (or its formal name, the WALL STREET REFORM AND CONSUMER PROTECTION ACT) was enacted "to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ``too big to fail," to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices,

and for other purposes."

Reviewing the Act one will not find a clear definition of just what systemic risk means, particularly with reference to insurers. There is no sentence that starts: "Systemic risk means…." The closest one comes is in Section 113(a)(1) which states:

"(a) U.S. NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council…may determine that a U.S. nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the U.S. nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the U.S. nonbank financial company, **could pose a threat to the financial stability of the United States.**" (Emphasis Added)

Sounds good, but again, exactly what does "a threat to the financial stability of the United States" actually mean? How does one tell? What level of threat?

Sounds good, but again, exactly what does "a threat to the financial stability of the United States" actually mean? How does one tell? What level of threat?

As a general proposition, Wikipedia defines systemic risk as "the risk of collapse of an entire financial system or entire market, as opposed to risk associated with any one individual

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entity, group or component of a system, which can be contained therein without harming the entire system. It can be defined as financial system instability, potentially catastrophic, caused or exacerbated by idiosyncratic events or conditions in financial intermediaries. It refers to the risks imposed by inter-linkages and interdependencies in a system or market, where the failure of a single entity or cluster of entities can cause a cascading set of failures, which could potentially bankrupt or bring down the entire system or market."

In other words, it's calamity.

Certainly there is a level of what may be called "misery" that can be applied whenever something occurs that is discomforting. A couple planning a wedding puts a down-payment on a catering hall that then goes bankrupt. Result: misery. You place an order for furniture and make a down-payment. The furniture store goes bankrupt. Ergo: more misery. An insurer goes broke so one has to replace certain mandatory coverages. The result is inconvenience and misery. Perhaps it is a life insurer and now the insured is older and their health condition has declined resulting in even more misery. Perhaps you have a claim or are a beneficiary under a policy and the amount due is more than the guaranty fund (i.e., a policyholder protection plan) limits. Even greater misery! But, is any of this misery "a threat to the financial stability of the United States?" Does it suggest "the collapse of the entire financial system?" If five companies go down the tubes, indeed there is a great amount of misery but does misery equal financial system collapse?

So considering the hyped 2008-2009 market downturn and ensuing misery, exactly how many US policyholders, claimants and beneficiaries failed to receive payments made under insurance contracts? And that's considering what is labelled as the worst downturn in 80 years. In short, there is not a high level of interconnectedness from one insurance group to another or from the insurance industry as a whole to other segments of the financial services sector.

What am I getting at here? Well, the efforts being expended to converge insurer financial assessment standards and in particular, the effort to devise a global capital standard for insurance groups has been, is and will continue to be expensive. Meetings take place around the world and considering the impact on insurers' operations and thus, the insurance marketplace, they are attended by hosts of regulators, observers and other interested parties (e.g., consumers). Yes, that's right, consumers! Who bears the costs of all these efforts? Consumers do primarily inasmuch as costs directly incurred by insurers are reflected in product prices. Regulatory costs are generally either assessed to insurers which, in turn, include those costs in product prices, or are borne by taxpayers. To the degree that marketplace competition doesn't allow for the recoupment through product prices, then the costs are borne

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by shareholders through lower net incomes, lower returns on capital, lower dividends and lower share prices.

What are the benefits of a group capital standard and assessment?

And even further, if such efforts bring the need for more capital, the cost of that capital will be borne by shareholders (through lower returns on capital or dilution) or by consumers through higher product prices inclusive of such costs. This leads to the question: What are the benefits of a group capital standard and assessment?

There are a few things to consider which have not been adequately discussed in the public domain. These are:

- *Consumers buy products from individual insurers, not from insurer groups.* They have no privity of contract with the parent or holding company affiliates of the particular insurer from which they made their purchases. The question then becomes why are insurance groups composed of individual insurance companies? There are some marketing reasons for there to be more than one insurer in a group (e.g., different companies within a group specializing in different products). There are also some individual statutory reasons that engender that approach (e.g., prohibitions against tiered underwriting). And, there are some capital provider reasons, the latter being the segmentation of capital so that a single overall problem doesn't take down the entire franchise, the corporate veil so to speak. Thus, the fact that the group is adequately capitalized per a regulatory view does not necessarily translate into an increased probability that the individual promises insurance contracts represent will be met. This calls into question whether a view of a group's capital position is relevant to any particular consumer of an individual group member's product. There are no statutory rules relative to the fungibility of capital within a group (as there in the banking sector by the way).
- *Thus, group held capital doesn't necessarily have to flow down to an individual insurer that might actually need that inflow at any given time.* While regulators have and do cooperate, there is no global group statutory regulatory system in place that could guarantee that capital would flow in the indicated direction. And, there's not likely to be such a system any time soon. Suppose more than one downstream company needs the group capital, who would prioritize the flow of capital? Suppose further, that capital is down-streamed to individual insurers and then subsequently needs arise elsewhere in the group system, can the flow of capital automatically change direction? What if there are dividend limitations or the regulator of an individual insurer doesn't believe it advisable to give up capital under its control to cure a problem elsewhere? Think about the answers to these questions in the political context. Would a domestic regulator (or any other jurisdictional regulator) decrease the probability of a company under its supervision meeting its responsibilities to that regulator's constituents in order to increase the prospects for another policyholder of a different company within the group?
- *Consumers have policy protection schemes so that if their particular insurer from which they purchased a product is unable to pay, the overall industry provides effectively a financial guaranty for that product.* Yes, such schemes (or guaranty funds) have limits but then, who gets any of the possible benefit from the capital residing at the group level or perhaps within the holding company's individual insurers? The answer is the people who bought high value coverages above the guaranty fund limits. If, for example, you have a $500,000 life policy in a jurisdiction with that level of policyholder protection scheme and the company goes broke, you (or more likely your beneficiary) get $500,000. If you bought a $50 million policy then there's a different question. So, is this an effort to protect those who buy $50 million policies? Do only those consumers pay the freight for this effort?

Thus, group held capital doesn't necessarily have to flow down to an individual insurer that might actually need that inflow at any given time.

- *Excepting mutual and reciprocal enterprises, most groups are headed by a holding company.* Most of the larger of these are publicly traded entities. Insurers are subject to state-based particularized receivership and liquidation schemes supervised by state courts. However, holding companies are not subject to such a paradigm, they being subject to federal bankruptcy laws supervised by the Federal courts. Thus, how would the failure of a holding company interact with the failure of the holding company's insurance company subsidiaries? What if the holding company fails but the insurers do not? What happens if the holding company fails and its non-insurer subsidiaries fail but the insurers do not? What happens in the reverse situations? What happens if the holding company and the insurer subsidiaries fail? Suppose the Federal courts decide one course of action that is contrary to the interests of the state courts?
- *Let's suppose that the effort is successful and an agreed upon group capital system is obtained. To whom will it apply?* Currently, it could apply to insurers deemed globally systemically important (G-SIIs) or domestically deemed systemically important groups (D-SIFIs), internationally active

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To Converge, or Not to Converge – continued from **page 9**

insurer groups (IAIGs), other insurer groups or all of the above. What is the competitive impact on the marketplace if not all groups are subject to such a standard, not only in consideration of the global marketplace but from the perspective of an individual jurisdictional or individual product category marketplace?

- *Since the idea is "to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes," what would that group capital level be?* If the determined level was accurate, presumably the level would be the present value of the probability of that undesirable bailout. But if that is indeed the case, then consumers (who, by the way, are also taxpayers and in many instances, shareholders) are merely paying up front the cost of such a prevented bailout. Why? Isn't that merely another tax? Moreover, what if the calculated standard is empirically correct but the groups to which it pertains all have capital significantly above that level (a prospect that seems eminently likely), then what is the benefit of this costly effort? Is the effort moot?

Again, what is the quantified benefit? We could determine the money spent; but, can we get a quantifiable amount of benefit? Did anyone conduct a cost/benefit analysis before the effort was begun? Not to anyone's knowledge. So, effectively, consumers (and shareholders) have funded, and continue to be required to fund, the cost of this effort without any knowledge, or even an estimate, of any quantifiable benefit from the effort. That seems neither wise nor reasonable. In fact, as a consumer, to me it's outrageous! Moreover, there doesn't seem to be any benefit--for shareholders, taxpayers or even, startlingly, regulators!

As we say in some precincts of New York, "To be...or what?" Before the curtain rises on this play, we suggest a second, hard look at the script. ■

Martin F. Carus is President of Martin Carus Consulting, LLC and has spent 50 years in the insurance industry, as one of New York's acknowledged top regulatory thinkers and protagonists. From 1965 through 1999, he was a member of the New York Insurance Department (now the Department of Financial Services) rising to Chief Examiner. From 1999-2014, he was Senior State Relations Officer for the American International, Group, Inc. where he acted as AIG's Observer to the International Association of Insurance Supervisors.

Meet Your Executive Board: Andrea Baytop

Andrea Baytop, MCM, became an IRES Director in 2010 as an at-large member and obtained a four year term to represent Virginia in 2011. She has held an at-large Executive Committee position for two years. She chaired the Education committee last year and is currently the Chairperson of the MCM/AMCM Committee. She has been with IRES since 2002. She was the Vice President of the IRES Virginia Chapter for two years and subsequently became the President for two years. She has been involved in coordinating the MCM Program since 2012.

Andrea has observed several changes implemented in IRES in the past five years -- IRES has changed management firms, the MCM Program has been administered through three different committees, the AMCM designation was created, IRES created the MCM/AMCM Committee, and the CDS was combined with the IRES Foundation School in 2014. Andrea helped manage, organize, edit and finalize the revised MCM Textbook in 2013.

Andrea has also been a member of the Accreditation and Ethics Committee (2012-2013), the CDS Committee (2012-present), and the Education Committee (2013-2014). The MCM/AMCM Committee was created in 2014 to facilitate coordination of the MCM and AMCM designation programs.

Andrea will have been a market conduct examiner with the Virginia Bureau of Insurance for 15 years this August. She is a Senior Insurance Market Examiner in the Bureau's P&C Division. She enjoys helping insurers become compliant in the marketplace and ensuring consumers are treated fairly.

Her interests include reading, traveling, baking, eating, and hanging out with family and friends. ■

Market Regulation and Consumer Affairs (D) Committee

Updates as of Feb. 18, 2015

by Tim Mullen

As we move into March and the NAIC Spring National Meeting draws near, 2015 looks to be another busy year for the NAIC's Market Regulation and Consumer Affairs (D) Committee. There certainly will not be a shortage of topics ranging from market regulation accreditation, market analysis, privacy disclosures, examination standards, and the unauthorized practice of public adjusting.

Market Regulation Accreditation

Market regulation accreditation will be a priority issue in 2015 with a newly appointed Market Regulation Accreditation (D) Working Group charged to develop a formal market regulation accreditation proposal for consideration by the NAIC membership that provides recommendations for the following: 1) accreditation standards; 2) a process for the state implementation of the standards; 3) a process to measure the states' compliance with the standards; and 4) a process for future revisions to the standards.

The Working Group has already finalized a Market Regulation Accreditation Discussion Document which sets forth high-level guiding principles, objectives and goals to provide a framework for the market regulation accreditation discussions in 2015. The Discussion Draft developed by the Working Group provides the following potential goals for a market regulation accreditation program:

1. Continuously improve the effectiveness and efficiency of state insurance market regulatory activities through consistent application of the Core Competencies and Standards in the NAIC Market Regulation Handbook.
2. Strengthen the quality of market regulatory activities through promoting consistency and eliminate duplication wherever possible.
3. Continuously improve the effectiveness and efficiency of state insurance market regulatory activity through interstate collaboration and coordination.
4. Establish standards for the qualifications and competencies of state insurance market regulation professionals.
4. Identify areas where a common standard is beneficial, realistic and achievable in NAIC member jurisdictions and develop the standard accordingly. For areas where a common standard is not realistic, develop best practices to be used by all NAIC member jurisdictions.
5. Develop a core training program and additional resources for NAIC member jurisdictions in support of market regulation activities.

The Working Group has issued a public request for market regulation accreditation proposals and will be discussing draft proposals in March with the goal of releasing the Working Group's initial market regulation accreditation proposal at the NAIC Spring National Meeting. Maintaining the balance between creating a more structured, national system of market conduct while recognizing meaningful state differences will continue to be a critical focus of discussion. The project timeline for the Working Group calls for the Market Regulation and Consumer Affairs (D) Committee to adopt a final Market Regulation Accreditation Proposal by the end of 2015.

Market Analysis

In 2014, the Market Analysis Procedures (D) Working Group adopted a Health Reform Data Call and Definitions to be incorporated into the NAIC's Market Regulation Handbook for use by individual states. With the adoption of the Data Call by the Market Regulation and Consumer Affairs (D) Committee, a potential pilot project for the data call in 2015 was discussed as a way for the Working Group to receive feedback on its use by individual states. These discussions will help guide the Working Group in its determination of whether the health data call should become the next line of insurance for the Market Conduct Annual Statement (MCAS).

Separate from the formal activities of the Working Group will be the first collection of Long-Term Care data through MCAS in 2015. All companies with any in-force Long Term Care policies, Life-Long Term Care hybrid products, or Annuity-Long Term Care hybrid products are required to report data in MCAS beginning April 30, 2015. The first report will cover the 2014 calendar year.

Additional action items on the 2015 agenda for the Working Group include developing a trending report for the analysis of MCAS data, developing a standard process for determining MCAS "outliers" at the state level, and reviewing market analysis processes to determine what analysis can be completed on a more frequent basis.

Privacy Disclosures

In response to federal activity at the Consumer Financial Protection Bureau addressing privacy disclosures, the Market Regulation and Consumer

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(D) Committee Update – continued from page 11

Affairs (D) Committee has appointed a Privacy Disclosures (D) Working Group. The first charge of this Working Group is to review the NAIC's Privacy of Consumer Financial and Health Information Regulation, which was adopted to implement the annual privacy disclosure requirements for insurance companies as required by Title V of the Gramm Leach Bliley Act (GLBA), and determine if any changes should be made to the NAIC Model Regulation to be more consistent with the amendments to Regulation P.

At the federal level, Regulation P was issued to implement the annual privacy disclosure requirements for "financial institutions." Amendments to Regulation P are now being proposed by the Consumer Financial Protection Bureau, which was granted rulemaking authority over the privacy provisions of GLBA with the passage of Dodd-Frank. In summary, the proposed changes to Regulation P would allow "financial institutions," such as banks and security firms, to stop mailing annual notices if they post the annual notices on their websites.

The second charge of this Working Group is to review the sample privacy notices of the NAIC Privacy of Consumer Financial and Health Information Regulation to determine if any changes should be made to the privacy notices to be more consistent with Privacy Model Notice Form issued by federal regulatory agencies for use by "financial institutions" as a safe harbor of compliance with the privacy notification requirements of GLBA. This issue was discussed several years ago and no action was taken. With the suggested changes to Regulation P, another review of the privacy notices in the NAIC Model Regulation is now appropriate.

Market Conduct Examination Standards

The Market Conduct Examination Standards (D) Working Group has been developing examination standards for health reform for approximately three years, and the Working Group will continue its work on drafting market conduct examination standards corresponding to health reforms. Major working group accomplishments in 2014 include the adoption of new health reform market conduct examination standards, for discretionary state use, regarding prohibition of rescissions; extension of coverage for dependents to age 26; guaranteed availability; guaranteed renewability; coverage of individuals participating in approved clinical trials; prohibition of excessive waiting periods; essential health benefits; and revisions to core competencies concerning professional designations, contract examiner oversight and conflict of interest. The Working Group will also continue its discussions on the draft revisions to the sampling provisions of the NAIC's Market Regulation Handbook.

Joint Projects with the Property and Casualty (C) Committee

The Market Regulation and Consumer Affairs (D) Committee will continue to partner with the Property and Casualty (C) Committee. The Auto Study (C/D) Working Group will continue reviewing issues related to low-income households and the auto insurance marketplace. In 2015, there will also be new Public Adjuster (C/D) Working Group reviewing issues related to the unauthorized practice of public adjusting. This review will also be coordinated with the Producer Licensing (EX) Task Force.

Task Forces of the Market Regulation and Consumer Affairs (D) Committee

The Antifraud (D) Task Force will continue to maintain and improve electronic databases regarding fraudulent insurance activities, such as the Online Fraud Reporting System, and provide a liaison function between insurance regulators, law enforcement (federal, state, local and international) and other specific antifraud organizations.

The Market Information Systems (D) Task Force will continue to provide business expertise regarding the desired functionality of the NAIC Market Information Systems and the prioritization of regulatory requests for the development and enhancements to the NAIC Market Information Systems.

For anyone wanting additional information about the activities of the Market Regulation and Consumer Affairs (D) Committee, its Task Forces, and Working Groups, please visit the following web link on the NAIC Website: http://www.naic.org/committees_d.htm. ■

Tim Mullen is Director of the NAIC's Market Regulation Department. As the Director of the Department, he provides professional expertise and support to state insurance regulators for the following market regulatory functions: antifraud, consumer assistance, market analysis, market conduct examinations, and producer licensing. Mr. Mullen is a member of the Missouri Bar, the Kansas Bar, a Chartered Property & Casualty Underwriter, a Certified Insurance Examiner, and the 2009 recipient of the Paul L. DeAngelo Memorial Teaching Award from the IRES Foundation.

'Zoning In'

by Kathy Donovan

Northeast Zone

Connecticut Issues Health Insurance Filing Requirements

On Feb. 18, 2015, the Connecticut Insurance Department released two bulletins detailing filing requirements for health insurers. Bulletin HC-90-15 establishes filing requirements for non-grandfathered individual and small group health insurance policies subject to the ACA for plan years beginning Jan. 1, 2016, while Bulletin HC-81-15 sets forth "Health Insurance Rate Filing Submission Guidelines."

District of Columbia Addresses Credit Score Use

The District of Columbia's Department of Insurance, Securities and Banking issued the following guidance on Feb. 19, 2015 to insurers regarding the use of credit scores in the rating of insurance policies in the District: "If an insurer opts to use credit scores as factors to rate policies and the insurer does not review credit scores at least annually, then the insurer must afford every policyholder, once a year at any renewal, the right to request and to receive a rate determination that considers the most recent credit score. Insurers must also notify every policyholder of these rights. To this end, insurers shall provide such a disclosure in the initial policy document and all subsequent renewal letters. The disclosure shall also be included in the form filing that is submitted to this Department for approval."

Hurricane Deductibles Guidance Issued in Maine

The Maine Bureau of Insurance issued Bulletin 398 on Jan. 21, 2015 providing additional information on its new Rule 960 and insurers' application of hurricane deductibles. This Rule, effective Apr. 1, 2015, provides for the application of a hurricane deductible "only during the period that starts when the National Weather Service issues a hurricane warning for a forecast zone that includes any part of the municipality in which the insured property is located and ends twenty-four (24) hours after the National Weather Service terminates the last hurricane warning for that forecast zone." The Rule defines "forecast zone" as "a forecast area published by the National Weather Service for the State of Maine." Insurers are encouraged to review their hurricane deductible provisions and take any necessary steps to bring them into compliance with Rule 960 by its effective date.

Vermont Updates Total Loss Guidance

The Vermont Insurance Division has revised its guidance regarding the settling of a motor vehicle total loss using a published price guide under Section 8(b)3 of Regulation 79-2, Fair Claim Practices. Based on feedback from the industry, the Division's Bulletin 182 outlines changes including expansion of the geographic area available to insurers and an increase in the number of vehicles that can be considered based on date of sale.

Southeast Zone

"Sliding" Prohibition Addressed by Florida

The Florida Office of Insurance Regulation reminds insurers in its Informational Memorandum OIR-15-01M issued Feb. 3, 2015 of the requirement that insurers refrain from engaging in practices that constitute unfair methods of competition or unfair or deceptive acts or practices, including the act of "sliding." The Office indicated that it had "been made aware that some insurers, offering travel insurance through retail travel agencies in conjunction with travel purchases made via websites, require consumers to opt out of purchasing ancillary travel insurance by deselecting a radio button or check box. If a consumer does not deselect the insurance offering on the website, the cost of the coverage is automatically added to the consumer's total purchase."

Mississippi Updates Fire Loss Reporting Requirements

The Mississippi Insurance Department announced in its Bulletin No. 2015-1 that beginning May 1, 2015, all insurance companies are required to electronically complete and submit the Fire Loss Registry Form for Insurance Companies for fires that meet the statutory reporting requirement under §45-11-2. "Reports are to be submitted on an as-occurring basis and each report should be submitted no later than forty-five days after the event." The report form is available on the MID website.

Puerto Rico Announces Availability of "Selection Form" under the Compulsory Motor Vehicle Liability Insurance Act

Puerto Rico's Office of the Commissioner of Insurance issued Circular Letter No. CC-2015-1856-AP which describes the creation of a "Selection Form" that will be available at entities authorized to collect the Compulsory Liability Insurance (CLI). All private insurers that are interested in participating in the "Selection Form" are required "to notify annually the Commissioner of Insurance of their decision at least 90 days in advance of the effective date of the form." Insurers are advised that they have until Mar. 2, 2015 to notify the Commissioner in writing regarding their decision to participate on the "Selection Form" for 2015-2016

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'Zoning In' – continued from page 13

Midwest Zone

Transportation Network Legislation Enacted in Illinois

Under Public Act 098-1173, Illinois transportation network companies (TNCs) and participating TNC drivers, will be required to comply with the specific automobile liability insurance requirements established under the new Transportation Network Providers Act. Each TNC will also be required to disclose in writing to TNC drivers, as part of its agreement with those TNC drivers, the following: (1) The insurance coverage and limits of liability that the transportation network company provides while the TNC driver uses a vehicle in connection with a transportation network company's digital network or software application; and (2) That the TNC driver's own insurance policy may not provide coverage while the TNC driver uses a vehicle in connection with a transportation network company digital network depending on its terms.

Iowa Addresses Electronic Delivery of Adverse Action Notices

The Iowa Insurance Division's Bulletin 15-01 details its position concerning the electronic delivery of cancellation, nonrenewal, and termination notices in light of current Iowa law which requires that insurers must obtain proof of receipt for any such notice. However, the Division states that it is "unaware of any satisfactory available electronic verification software. Until such time as the Division is able to evaluate, and, if appropriate, authorize by rule acceptable methods of electronic receipt verification, all notices of cancellation, nonrenewal or termination shall be mailed to the policyholder to prove receipt through the post office department certificate of mailing as provided by law, and shall not be delivered solely by electronic means. However, notice by electronic means may also be made as a service to the policyholder." In light of the Division's plans for future rulemaking on electronic delivery, it encourages insurers to provide information and examples of electronic receipt verification systems.

Ohio Issues Price Optimization Position

The Ohio Department of Insurance has announced that an insurer currently using price optimization in any manner similar to that described in Bulletin 2015-01 "to rate insurance policies in Ohio must submit a SERFF filing that is compliant with this Bulletin no later than Mar. 31, 2015, with proposed effective dates no later than May 31, 2015 for new business and June 30, 2015 for renewal business. The filing submission must identify the SERFF tracking number of the filing that is being replaced or corrected."

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Have your say – make someone's day! Well, actually, their year...

4th Annual Al Gross/Jim Long Rookie of the Year Scholarship

by Carla Bailey

The Insurance Regulatory Examiners Society (IRES) and the IRES Foundation are sponsoring the 4th Annual Al Gross/Jim Long Rookie of the Year Scholarship for calendar year 2015.

This award is named after two long-serving Insurance Commissioners who passed away shortly after retiring from their positions; Virginia Commissioner of Insurance, Al Gross and North Carolina Insurance commissioner, Jim Long. Both of these Commissioners were dedicated to serving their constituents. In reading about these men, the same attributes came up again and again – Dedicated, Leaders, Innovators, Mentors – neither were afraid to get involved in difficult issues and find solutions by looking outside the box. Both men were recognized and touted as exceptional leaders by their peers and those who worked for them.

The scholarship will be awarded to four (4) State Regulators (one in each zone) who have demonstrated exceptional promise, professionalism, and a commitment to continual improvement. Recipients will be reimbursed up to $1000.00 in travel related expenses as well as waived registration fees at one of the following programs:

- IRES Foundation National School on Market Regulation: April 12-14, 2015 in San Diego, California.
- IRES Career Development Seminar: July 19-22, 2015 in Charleston, South Carolina.
- MCM (Market Conduct Management) Designation Program

The awardees must be current State Insurance Department Employees with less than 2 years of service as of January 1, 2015. They must demonstrate exceptional promise and professionalism in representing their states as regulators and seek to develop skills through completion of training programs provided by recognized insurance industry institutional programs including, but not limited to, those provided by The Institutes

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Rookie of the Year Scholarship – continued from page 14

(formerly AICPCU), The American College, LOMA, and the NAIC.

The Society and the Foundation propose partnering with NAIC Zone Officers in the selection process. Each NAIC member may nominate one individual for this award. Nominees should complete the form here, http://www.go-ires.org/documents/IRES_Scholarship_App.pdf, with a letter of recommendation from their Commissioner, Director, or Superintendent and submit to info@go-ires.org no later than April 2, 2015.

Nominees and recipients are not required to be IRES members. Members, feel free to circulate this announcement to nonmembers!

We understand the ability to accept the scholarship may vary by state due to ethics consideration; as such, participation by states is voluntary.

Know a superstar who no longer qualifies as a rookie?

Know a superstar who no longer qualifies as a rookie, but deserves recognition? IRES offers two other awards to recognize outstanding performance by seasoned IRES members--the Al Greer Award, and The Chartrand Communications Award.

The Al Greer Award

In 1998, the IRES Board of Directors established the Al Greer Achievement Award in honor of Al Greer. Mr. Greer was one of the original state insurance examiners who had the vision to establish the Insurance Regulatory Examiners Society in the late 1980s. As a founding father of IRES, Mr. Greer helped fashion the mission of IRES, namely, to raise insurance regulation to a highly respected profession marked by technical proficiency and ethical behavior. He went on to serve on its Board of Directors and was later elected treasurer and was always willing to help where ever he was needed. The Al Greer Achievement Award is presented annually to an insurance regulator and IRES member who not only embodies the dedication, knowledge and tenacity of a professional regulator, but who exceeds those standards. Mr. Greer himself was the first recipient of this award in 1997. Recently, the Al Greer Award has been presented to the following recipients:

- Jo A. LeDuc, 2014
- William (Bill) McCune, 2013
- Don Carbone, 2012
- Eric Nordman, 2011
- Cynthia Amann, 2010

Click here http://www.go-ires.org/leadership/pastwinners#greer for a list of all those to whom the Al Greer Award has been presented. Candidates for the Al Greer Award must be insurance regulators who not only embody the dedication, knowledge and tenacity of a professional regulator, but also exceed those standards. In addition, a nominee must:

- Have at least ten years of regulatory experience
- Have at least five years as an IRES general member and
- Be a current general member of IRES.
- Is not currently serving on the IRES Board of Directors

To nominate a deserving individual, complete an Al Greer Award Nomination form and send it to IRES. Nominations must be received no later than April 30, 2015.

Click here http://www.go-ires.org/leadership/halloffame/algreer for the Al Greer Achievement Award nominations form.

The Chartrand Communications Award

For over 20 years David Chartrand and his incredible associates, Susan Morrison, Elaine Bickel, Joy Moore, and Art Chartrand, were at the helm of IRES. Without the dedication and devotion of these diligent individuals, IRES would not be the organization that it is today.

To honor the legacy and work Chartrand Communications did for IRES, the Executive Committee and Board of Directors created the Chartrand and Associates Award.

This award is to recognize those that have made a difference to IRES through their actions. Who has really strived to keep IRES moving toward the future? Who has helped increase membership and promoted us outside the conference and in the Insurance Community? Who continually tries to make a difference in IRES? We know these unsung heroes deserve to be recognized.

Recently, the Chartrand Communications Award has been presented to the following individuals:

- Tanya Sherman, 2014
- Erin Mirza, 2013
- Joe Bieniek, 2012
- Holly Blanchard, 2011

Click here http://www.go-ires.org/leadership/pastwinners#chartrand for a list of all those to whom the Chartrand Communications Award has been presented. Nominations are open to all IRES members, sustaining members and organizations that have been involved with IRES for at least two years. Nominate a deserving individual please complete the nomination form. Nominations must be received no later than April 30, 2015.

Click here http://www.go-ires.org/leadership/halloffame/chartrand for the Chartrand Award nominations form.

If you have any questions about the Al Greer and Chartrand Communications awards, contact IRES Membership and Benefits Chair, Martha B. Long at 573-751-2303 or Martha.Long@insurance.mo.gov or Recognition and Awards Chair, Carla Bailey at 206-587-5185 or carlab@oic.wa.gov. ■

For more information on all of the awards IRES offers, please visit www.go-ires.org/leadership/halloffame

'Zoning In' – continued from page 14

Western Zone

Provider Network Adequacy Emergency Regulation in Effect Until July 30, 2015

California's "Emergency Medical Provider Network Adequacy" Regulation is intended to address "the problems identified with access to primary care doctors, specialists and hospitals in 2014, as many health insurers reduced or narrowed their medical provider networks and/or shifted to offering Exclusive Provider Organization health insurance products with no out-of-network benefits." The California Department of Insurance notes the following carrier requirements as being included in the new regulation's provisions:

- Include an adequate number of primary care providers and specialists with admitting and practice privileges at network hospitals;
- Consider the frequency and type of treatment needed to provide mental health and substance use disorder care when creating the provider network;
- Adhere to and monitor new appointment wait time standards;
- Prevent "surprise" bills by requiring medical facilities to inform patients that an out-of-network medical provider will participate in the non-emergency procedure or care, before the care is provided, so that the patient can decline the participation of the out-of-network provider if they so choose;
- Report information about the networks and changes to the networks to the Department of Insurance on an ongoing basis;
- Provide accurate provider network directories to the Department and make them available both to policyholders and the public, so that those shopping for health insurance have this information as well; and
- Make arrangements to provide out-of-network care at in-network prices when there are insufficient in-network care providers.

California Issues Ban on Price Optimization

The California Department of Insurance sent a Notice to property and casualty insurers on Feb. 18, 2015 stating that as "price optimization does not use actuarially sound methods to estimate the risk of loss, its use in the ratemaking process is unfairly discriminatory and violates California law." The Department's mandate includes the following:

- Any insurer currently using "Price Optimization" to adjust its rates in California shall cease this practice.
- Any insurer that has employed Price Optimization to adjust its rates in the ratemaking/pricing process shall remove the effect of any such adjustments from any filing to be submitted subsequent to Feb. 18, 2015.
- Any insurer that has a factor or factors based on Price Optimization in its rating plan shall remove the factor or factors in its next filing. The insurer shall submit this filing no later than six months from Feb. 18, 2015.

Colorado Provides Cost-sharing Guidance to Health Carriers

The Colorado Division of Insurance issued Bulletin No. B-4.82, providing guidance on cost sharing variations for prescription drug benefits in various health insurance benefits plans, but not catastrophic plans, grandfathered plans, transitional plans, large group plans, and HSA qualified high deductible plans. The Division provided specifics on plan designs, highest allowable copayment restrictions, and coinsurance caps. ■

Kathy Donovan is senior compliance counsel, Insurance with Wolters Kluwer Financial Services. Kathy has more than two decades of experience in insurance compliance. Her expert commentary on legal and regulatory issues affecting the insurance industry is widely published and she is a regular presenter at various industry events.

IRES Foundation School on Market Regulation

April 12-14 in San Diego, CA

Is professional development part of your 2015 new year's resolutions? Don't delay! Plan your visit to San Diego, California to attend the IRES Foundation 2015 National School on Market Regulation where you can gain great insight into emerging market regulatory topics through keynote speakers and breakout sessions. In addition to a broad curriculum, the School also provides regulators and industry compliance personnel with a unique networking opportunity by offering regulator roundtables and one-on-one sessions.

Whether you are new to compliance or a seasoned professional, you will agree that education and collaboration are critical to the success of your role as a compliance professional. Our School is uniquely focused on market regulation and compliance related topics and has been recognized as "the event" to bring together insurance regulators and industry professionals. Proceeds from the School help fund educational efforts of the Insurance Regulatory Examiners Society (IRES). One example is the Foundation's help in funding the development of the IRES MCM and AMCM Designation Programs. These are unique and practical programs that provide hands-on-training for insurance regulators and industry professionals on how to conduct an effective and efficient market conduct examination.

The agenda is now live on the website, so take a look and start planning your sessions now. Don't miss out on this great opportunity! Hotel space is limited. Register Today! ■

View More Upcoming Events on pg. 18

IRES 2015 Commissioner Guide

Prepared by Kallie Ruggiero Somme, MCM

Alabama	Jim L. Ridling	Appointed	334-269-3550
Alaska	Lori K. Wing-Heier	Appointed	907-269-7900
American Samoa	Tau Tanuvasa	Appointed	684-633-4116
Arizona	Germaine L. Marks	Appointed	602-364-3100
Arkansas	Allen W. Kerr	Appointed	501-371-2600
California	Dave Jones	Elected	916-492-3500
Colorado	Marquerite Salazar	Appointed	303-894-7499
Connecticut	Anne Melissa Dowling	Appointed	860-297-3800
Deleware	Karen Weldin-Stewart	Elected	302-674-7300
District of Columbia	Chester A. McPherson	Appointed	202-727-8000
Florida	Kevin M. McCarty	Appointed	850-413-5914
Georgia	Ralph T. Hudgens	Elected	404-656-2070
Guam	Artemio B. Ilagan	Appointed	671-635-1817
Hawaii	Gordon I. Ito	Appointed	808-586-2790
Idaho	Tom Donovan	Appointed	208-334-4250
Illinois	TBD	Appointed	217-785-4515
Indiana	Stephen W. Roberston	Appointed	317-232-2385
Iowa	Nick Gerhart	Appointed	515-281-5705
Kansas	Ken Selzer	Elected	785-296-3071
Kentucky	Sharon P. Clark	Appointed	502-564-3630
Louisiana	James J. Donelon	Elected	225-342-5423
Maine	Eric A. Cioppa	Appointed	207-624-8475
Maryland	Al Redmer Jr.	Appointed	410-468-2090
Massachusetts	Gary Anderson	Appointed	617-521-7794
Michigan	Annette E. Flood	Appointed	517-373-0220
Minnesota	Mike Rothman	Appointed	651-539-1500
Mississippi	Mike Chaney	Elected	601-359-3569
Missouri	John M. Huff	Appointed	573-751-4126
Montana	Monica J. Lindeen	Elected	406-444-2040
Nebraska	Bruce R. Ramge	Appointed	402-471-2201
Nevada	Scott J. Kipper	Appointed	775-687-4270
New Hampshire	Roger A. Sevigny	Appointed	603-271-2261
New Jersey	Kenneth E. Kobylowski	Appointed	609-292-7272
New Mexico	John G. Franchini	Appointed	505-827-4601
New York	Benjamin M. Lawsky	Appointed	212-480-2301
North Carolina	Wayne Goodwin	Elected	919-733-3058
North Dakota	Adam Hamm	Elected	701-328-2440
Northern Mariana Islands[a]	Mark O. Rabauliman	Appointed	670-664-3077
Ohio	Mary Taylor	Appointed	614-644-2658
Oklahoma	John D. Doak	Elected	405-521-2828
Oregon	Laura N. Cali	Appointed	503-947-7980
Pennsylvania	Teresa D. Miller	Appointed	717-783-0442
Puerto Rico	Angela Weyne	Appointed	787-304-8686
Rhode Island	Joseph Torti III	Appointed	401-462-9520
South Carolina	Raymond G. Farmer	Appointed	803-737-6160
South Dakota	Larry Deiter	Appointed	605-773-3563
Tennessee	Julie Mix McPeak	Appointed	615-741-2241
Texas	David Mattax	Appointed	512-463-6169
Utah	Todd E. Kiser	Appointed	801-538-3800
Vermont	Susan L. Donegan	Appointed	802-828-3301
Virgin Islands	Osbert Potter	Elected	340-774-7166
Virginia	Jacqueline K. Cunningham	Appointed	804-371-9741
Washington	Mike Kreidler	Elected	360-725-7000
West Virginia	Michael D. Riley	Appointed	304-558-3354
Wisconsin	Ted Nickel	Appointed	608-266-3585
Wyoming	Tom Glause	Appointed	307-777-7401

[a] *At press time, this person was serving in an "Acting" capacity. Source: National Association of Insurance Commissioners. Index is current as of February 2015. Individual State website addresses available via www.naic.org.* ■

New Members

Welcome!

The following members have joined IRES since the last issue of *The Regulator*®. Visit the online member directory to learn more about them—and please join us in welcoming them!

GENERAL MEMBERS

- ★ Linda S. Armstrong
- ★ Jeffrey Arnold
- ★ Kathleen M. Bergan, CIE, MCM (CO)
- ★ Lisa N. Borchert
- ★ Nicole M. Boyd
- ★ Timothy Butler
- ★ Natalya G. Castelli, AIE
- ★ Silmara Charlesworth
- ★ Ray K. Conover, AIE
- ★ Larry Elmer Cross, CIE, MCM, CFE, RHU, FLMI/M, CLU, ChFC (KY)
- ★ Dustin DeGroote
- ★ Angela M. Eastman
- ★ Nicole Brenae Ferguson
- ★ Elizabeth Fike
- ★ Nicholas Gammell, CPCU (CA)
- ★ Michael Gould
- ★ Gina A. Graham
- ★ Angelle Hayes (LA)
- ★ Laura Hill
- ★ Teresa Howell
- ★ Tiffany L. Jones
- ★ Debora Lee
- ★ Shannon Lloyd
- ★ Sheryl K. Logan
- ★ Ingrid J. Marsh
- ★ John McGinty
- ★ Jason Nemes
- ★ Amber Padron
- ★ Robert Scott Prenger
- ★ Shelly Schuman
- ★ Mark Matthew Sitter
- ★ Gerry K. Smith
- ★ Scott Allen Smith
- ★ Derek Stepp, CIE, MCM (DE)
- ★ Jennifer Lynn Welch
- ★ Lee W Wietz
- ★ Peggy J. Willard-Ross, CIE, CPCU, MCM, CPM, ARC, CIS (NV)

SUSTAINING MEMBERS

- ★ Susan Boyd
- ★ Richard Fidei
- ★ Jeffery Gorham
- ★ Michael Hailer, MCM
- ★ Runfeng Hu
- ★ Fred E. Karlinsky
- ★ Greg Mitchell
- ★ Rega Paulson
- ★ Truman Townzen
- ★ Brenda Westvold

New Designees

Congratulations!

The following members have received their Accredited Insurance Examiner (AIE™), Advanced Market Conduct Management (AMCM™), Certified Insurance Examiner, Market Conduct Management (MCM™) (CIE™), Certified Insurance Consumer Service Representative (CICSR), or Market Conduct Management (MCM™) designation since the last issue of *The Regulator*®. Please join us in congratulating them!

AIE™

- ★ Natalya G. Castelli, AIE
- ★ Michael Dolphin, AIE, MCM
- ★ Cynthia M. Fitzgerald, AIE, CICSR
- ★ Christian Hennelly, AIE, MCM (VA)
- ★ Donald L. Wilson, AIE

CIE™

- ★ John C. Stike, CIE, MCM, AMCM (WV)
- ★ Max P. Vega, CIE, MCM (DE)

CICSR™

- ★ Cynthia M. Fitzgerald, AIE, CICSR

Upcoming Events

IRES Foundation School on Market Regulation

April 12-14 | San Diego, CA

For more information visit the school website here http://ires-foundation.org/2015-school/

2015 IRES Career Development Seminar and Regulatory Skills Workshop

July 19-22 | Charleston, SC

For more information on 2015 CDS visit the CDS Webpage at go-ires.org/CDS/2015

2015 MCM Programs

April 15-17 – La Jolla, California

May 13-15 – Des Moines, Iowa

July 22-24 – Charleston, South Carolina

Oct. 19-21 – Atlanta, Georgia

For more information visit the MCM Program page at http://www.go-ires.org/mcm

Watch the calendar at www.go-ires.org for more upcoming events. ■

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To submit articles, photographs, or calendar items, contact: IRES, 1821 University Ave W, Ste S256, St. Paul, MN 55104; email TheRegulator@go-ires.org; phone 651-917-6250; fax 651-917-1835.

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Editor's Corner

by Kara Baysinger

In this issue of The Regulator® we focus on recent efforts to converge standards for regulating the insurance industry. The thought-provoking article by Mr. Martin Carus challenges us to consider whether efforts to converge insurer financial assessment standards and devise global capital standards is worth the effort and expense. Mr. Kevin Fitzgerald and Nicholas Paquette provide insight into the newly enacted National Association of Registered Agents and Brokers Reform Act (NARAB), its aim to establish nonresident licensing reciprocity throughout the 50 states and US territories and how it impacts state based regulation. Finally, Ms. Carol Stern's article on ERM, ORSA and corporate governance focuses on the challenges small companies face in the wake of the Solvency Modernization Initiative.

As always, we are thankful to Mr. Tim Mullen for keeping us abreast of what is happening with the NAIC (D.) Committee. This issue we also welcome a new contributor, Ms. Kathy Donovan, who will keep us "Zoned In" on state regulatory activity. We would also like to offer a very special welcome to the new commissioners coming into office in 2015!

Please let me know if you have any feedback on this issue, or ides for upcoming issues. It's your organization: make sure your voice is heard - right here in The Regulator®. ■

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NEXT ISSUE

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– Your staff at The Regulator® (Kara, Stephanie, Bella, and Heather)