THE REGULATOR™
INSURANCE REGULATORY EXAMINERS SOCIETY

A SPECIAL REPORT

What every regulator should know about the 1999 financial reform law

"Change is the constant signal for rebirth, the egg of the phoenix."
— Christina Baldwin

by Wayne Cotter
EDITOR

The bill formerly known as HR 10 is now a reality. The 144-page document took hundreds of authors *more than two decades* to produce. Contrast this with the two weeks it took Thomas Jefferson—working alone—to draft the Declaration of Independence and you'll understand that either (a) we live in extremely complex times or (b) our democratic process is seriously flawed.

Although no thinking person is likely to confuse the Gramm-Leach-Bliley Act (a.k.a, S900) with the Declaration of Independence, this new law is sure to have a major impact on all of us. The Act, which takes effect March 2000, breaks down the barriers that have separated insurance companies, banks and securities firms since the Great Depression. In addition, S900 introduces scores of new rules and regulations, ranging from the sublime (prohibits "tie-in" sales) to the ridiculous (permits mutual insurers to redomesticate if their home states fail to enact mutual holding company laws).

For this issue of *THE REGULATOR*, we wanted to focus on those sections of S900 that would have the greatest impact on IRES members. We came to the conclusion that long, tedious articles outlining the major provisions of the law should be avoided. Instead we chose to break down the Act into palatable chunks and then sought out the best people to explain the core elements of this complicated law.

Some head-in-the-sand regulators may believe that because Gramm-Leach-Bliley preserves functional regulation it's business as usual in this nation's insurance departments. Nothing could be further from the truth. In the years ahead, state insurance departments will be under the gun to create a more uniform licensing system; to approve new, hybrid insurance products; to adapt and enforce privacy statutes; and ultimately to demonstrate that state regulation still makes sense in a global financial environment.

We hope our authors provide you with some of the tools to begin this process.

JANUARY 2000

Spotlight on the 1999 Federal Financial Services Reform Act

The Regulator™

Wayne Cotter, Editor
quepasa@sprintmail.com

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130 N. Cherry, Suite 202 Olathe, KS 66061
913-768-4700 FAX 913-768-4900
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From the President

Just when you thought it was safe. . .

I was looking forward to a peaceful holiday season and the new year when somebody went forth and passed S900. This passage should really make the Year 2000 a very interesting one. It's already generated more work for me in 1999 than I planned to do in 2000.

Most of us (who have been in state regulation for a period of time) are accustomed to the status quo. With the passage of S900, we find ourselves questioning all aspects of how we do our jobs and the need for possible changes. We live in an age wherein efficiency is one of the most critical components of any operation. Quite a few of us have participated in the various regulatory re-engineering projects and have had our minds opened to the fact that things will change.

Gene Reed (Delaware) and Sam Meyer (South Dakota) are serving as co-chairs of the NAIC's Agent Licensing Working Group. I think that we should give these guys a pat on the back. After all, they've put up with comments like: "Not in my state!", "It will never happen.", "You must be joking." from quite a few of us (myself included.) These guys maintained calm, placed a smile on their faces, and politely advised us that "We've got to change." I'm sure that they used stronger "silent" comments about some of us. Come to think of it, these two probably knew that it would take the both of them to handle all of us!

We would be remiss if we assumed that licensure of agents would be the only part of the regulatory function to change. As we head down the S900 road, I believe that we will discuss all aspects of regulation. Hence, to the Gene Reeds and Sam Meyers that are heading up other working groups, we offer our humble apologies in advance!

Until the next issue,
Happy New Year.

Angela Ford
IRES PRESIDENT

Dennis W. Toivonen

Bank/Financial Holding Company Powers

First and foremost, the Gramm-Leach-Bliley Act gives banking organizations clear legal authority to underwrite and solicit all lines of insurance in all 50 states, however underwriting of insurance can only be carried out by a newly established entity called a “Financial Holding Company” (FHC) and its subsidiaries. The Act gives banking organizations flexibility to choose what type of corporate entity is appropriate for marketing insurance. Agency activities can be carried out by banking subsidiaries and subsidiaries of an FHC.

Financial Holding Companies

What is a Financial Holding Company? A “qualified” FHC may acquire or establish companies that underwrite, broker and sell insurance and annuities. There are no restrictions on the types of insurance that an FHC subsidiary can underwrite or market. Generally speaking, a “qualified” FHC is defined as an entity whose subsidiary depository institutions have had “satisfactory ratings” or better on their most recent Community Reinvestment Act (CRA) examinations.

In addition, FHC depository institutions must be “well-managed” and “well-capitalized.” If an FHC depository institution falls out of CRA compliance, the FHC can continue with current financial activities, but no new acquisitions or authorities are permitted. If an FHC depository institution ceases to be “well-managed” or “well-capitalized,” the FHC will be required to cure the problem. If the FHC fails to remedy the problem, the Federal Reserve Board can order the organization to cease financial activities.

National Banks — Sales

Current law limits national bank insurance sales to agencies established in locations with populations of less than 5,000 (under §92 of the National Bank Act). The Act also provides that a “qualified” national bank may sell all lines of insurance and annuities through a subsidiary. National banks now can choose a §92 agency or incorporate an agency pursuant to the Act that is unencumbered by various OCC regulatory rulings (e.g., First Union). There may be certain unintended legal advantages inherent in using §92 of the National Bank Act. For example, a national bank with an unsatisfactory CRA rating would not be “qualified” to establish an agency under the Act, but it could still establish a §92 insurance agency. (It should be noted that national banks can be subsidiaries of Financial Holding Companies)

Underwriting

Generally, a national bank or a subsidiary of a national bank may not now, or under the Act, underwrite insurance or annuities. This prohibition does not apply to products lawfully provided by national banks prior to January 1, 1999, or to products authorized in writing for national banks by the OCC, prior to January 1, 1999. Because they have been approved by the OCC, private mortgage insurance, credit insurance, financial guarantee insurance and debt cancellation contracts are products that escape the general prohibition on the underwriting of insurance by national banks.

State Insurance Regulation & “Safe Harbors”

The Act reaffirms the McCarran-Ferguson Act and the primacy of state insurance regulation. It specifically requires bank and FHC subsidiaries to be state licensed before engaging in insurance sales or underwriting. At the same time, the Act also protects banking organizations from unfair discrimination by state insurance laws and regulations. State anti-affiliation laws that “prevent or restrict” the affiliation of banks with insurance companies and agencies are preempted.

State insurance laws adopted prior to September 3, 1998, that “prevent or significantly interfere” with bank insurance sales activities are preempted. State laws adopted after September 3, 1998, must pass a two-fold test. They cannot “prevent or significantly interfere” with bank sales activities or violate a new statutory non-discrimination standard that prohibits a state from treating bank insurance activities differently than insurance sales activities unrelated to a bank.

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Dennis W. Toivonen is Senior Vice President with Wachovia Bank, N.A. He also has served as chief deputy of the Illinois Department of Insurance and general counsel for the Ohio Department of Insurance.

What regulators should know: Privacy Concerns

Frank Torres

Financial Privacy Far From a Reality Under New Law

(**Editor's Note:** The following article pertains to personal financial information. Existing prohibitions regarding the sharing of personal health and medical data will remain in place under the new law.)

With the passage of the Gramm-Leach-Bliley Act, the financial marketplace is poised to undergo rapid and profound changes, including the consolidation of industries. One consequence is that personal financial information has become a marketable commodity with banks, insurance companies and securities firms. These firms know and have the capacity to know more about an individual than ever before. Not only is this information used to market products and services to consumers, it can be used to make decisions about the cost and availability of those products and services.

Consumers have reason to be concerned about how their private financial information is being used, collected, shared and sold. Under the Gramm-Leach-Bliley bill there are no limits on the sharing of information about consumers' transactions (including account balances), who they write checks to, where they used a credit card and what they purchased, within a financial conglomerate. In most cases sharing a consumer's sensitive information with a third party is allowed, too.

Here is why the bill fails to protect the privacy of consumers:

Limited notice provisions

The notice provision merely requires that an institution provide consumers with their privacy policy. It could simply say "We share your information with affiliates and third parties," and satisfy the notice provision. Nor does a consumer have to be told how their information is being used.

Affiliates free to share personal records

Affiliates can still share and sell information and consumers have no ability to stop them. The so-called privacy protections in the bill do *not* apply to affiliates.

Loopholes allow information to be shared with "nonaffiliated third parties"

The bill contains a limited opt-out of third-party sharing. Even if a consumer opts-out, information may still be shared with third parties offering financial products on behalf of or endorsed by the institution or pursuant to a joint agreement between financial institutions. Thus, financial institutions can share customers' information without notice to the customer or allowing that customer to have the ability to opt-out.

No consumer access

The law does not allow a consumer to have access to the information collected, or the ability to correct erroneous information.

Here is what consumers should have when it comes to privacy protections:

Notice

Financial institutions should inform their customers in a clear and conspicuous manner when they plan to collect, use and/or disclose personally identifiable information, and customers should be told the intended recipient of the information and the purpose for which it will be used.

Access

A customer should have access to personally identifiable information held by the financial institution

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Frank Torres is Legislative Counsel with Consumer's Union, the nonprofit publisher of Consumer Reports.

C.E. News

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Evidence of completion is required for any course or seminar submitted for credit.

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George Nichols

Functional Regulation is Now the Law of the Land

There is an adage about personal rights and responsibilities that goes: Your rights end where the other fellow's begin. That adage is alive and well for federal and state regulators under the Gramm-Leach-Bliley Act, which says that "functional regulation" is now the law of the land. In addition, the Act reaffirms that states will be the functional regulators for all insurance providers in the United States.

What does "functional regulation" mean for regulators and the industries? The rights and responsibilities of each regulatory agency will begin and end at a point where the business activity, service or product by a financial conglomerate crosses over into the realm of a specific regulatory agency.

In most cases, there should be little problem in identifying the appropriate federal or state regulator for these products and services. Insurance products, for example, are clearly defined in the Act to include the familiar life, health, and property/casualty policies which states have been regulating for many years. The real challenges for regulators will occur when newly developed financial products overlap the boundaries of traditional supervisory jurisdictions, or when the impact of a conglomerate's activities in one line of business threatens the safety and soundness of its affiliates in another business supervised by a different agency.

The solution for avoiding potential confusion and regulatory mistakes in this new era of functional supervision is cooperation. For state insurance regulators, that means actively reaching out to federal regulators of banks and securities firms that may now freely participate in the insurance business. We share a common interest in making sure there are no holes in the regulatory safety net protecting consumers.

Working through the NAIC, state regulators last year began establishing a process for cooperating with federal regulators on examinations, enforcement matters, and consumer complaints. We knew that such cooperative agreements were necessary to meet the demands of a modern marketplace, even if the Gramm-Leach-Bliley Act failed to pass. Moreover, we were pleased that key federal agencies — the Federal Reserve Board, the Comptroller of the Currency, and

> **"While the Gramm-Leach-Bliley Act sets forth an expedited process for resolving differences between state and federal regulators, we know from experience that litigation is the wrong way to supervise industries in a fast-moving marketplace."**
>
> **— George Nichols**

George Nichols III is Kentucky's Commissioner of Insurance and the current President of the National Association of Insurance Commissioners.

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the Office of Thrift Supervision —expressed a similar desire for working together closely. Now that the Act is law, our mutual cooperation efforts will be strengthened and expanded.

Here are some of the areas where the Gramm-Leach-Bliley Act envisions regulatory cooperation of the type we have already begun:

√ Affiliations: Under the Act, states will continue to review and approve or disapprove all affiliations and changes of management control affecting insurers, including those involving banks. These decisions will be made by the insurer's state of domicile, which is consistent with existing practices. As a practical matter, a state or federal regulator may need to rely upon the information and findings of other regulators who may not actually have the final say as to whether a merger is approved. That will become even truer as more insurers merge with depository institutions.

√ Market Conduct: The Act specifically preserves a number of state consumer protections regarding the sale of insurance by banks. It also mandates that federal regulators produce similar protections in consultation with the states. Beyond that, states cannot discriminate or "significantly interfere" with the insurance activities of banks. States will need to coordinate their market conduct regulations with appropriate federal agencies to avoid unnecessary litigation concerning the scope and purpose of state consumer protection rules.

√ Solvency: The Act maintains the authority of states to enforce solvency requirements over insurer affiliates of financial conglomerates. However, states cannot require holding companies supervised by the Federal Reserve to produce additional capital. On the other hand, the Federal Reserve Board generally cannot force a state-regulated insurer affiliate to provide money to the holding company or its banking affiliates. Obviously, we must all work together because the financial health of each affiliate will likely be tied to the overall condition of the holding company.

√ Consumer Privacy: The Act permits states to develop and enforce consumer privacy regulations relating to the personal financial information of customers held and shared among conglomerates and their affiliates. The federal regulators are required to produce similar privacy regulations in consultation with the states, which the states may then enforce on insurance matters. Since the regulations are meant to work together, state and federal regulators will need to coordinate their rules.

As a final note, let me point out that regulatory cooperation among state and federal agencies not only makes perfect sense from a practical viewpoint, it also is the key to avoiding wasteful and counter-productive litigation. While the Gramm-Leach-Bliley Act sets forth an expedited process for resolving differences between state and federal regulators, we know from experience that litigation is the wrong way to supervise industries in a fast-moving marketplace.

The NAIC and state insurance regulators look forward to implementing the Gramm-Leach-Bliley Act by actively working for solutions with fellow regulators as partners in a joint effort that is critically important to all Americans.

Want the Entire Bill?

Need a copy of Gramm-Leach-Bliley? It's available on www.house.gov/banking/s900lang.htm. You can also link to the site via the IRES website, www.go-ires.org.

What regulators should know: Licensing

Ken A. Crerar

At Long Last: Uniform Licensing

When the National Association of Insurance Commissioners met for the first time in 1871, New York Commissioner George W. Miller proposed a vision for insurance regulation in the United States.

"The commissioners are now fully prepared to go before their various legislative committees with recommendations for a system of insurance law which shall be the same in all states," he declared, "not reciprocal, but identical; not retaliatory, but uniform."

In the 128 years that followed, state insurance regulation matured into a strong system. But, unfortunately, Miller's vision was never realized. In fact, for commercial insurance agents and brokers the current licensing system is inefficient and expensive, making it difficult to provide the best insurance products and services to millions of American consumers.

A single agent or broker often has to hold scores of licenses with all sorts of duplicative and unnecessary requirements that have little or nothing to do with standards of professionalism. An agent or broker marketing a national insurance program may routinely have to obtain more than 100 licenses – on a line-by-line, class-by-class, state-by-state basis.

Several states require agents or brokers to incorporate their agency inside the state in which they are soliciting business. Still other states do not allow non-resident brokers to solicit business at all. These requirements are a significant barrier to interstate commerce, creating costs that are passed to consumers.

That is why The Council of Insurance Agents & Brokers made the passage of NARAB – the National Association of Registered Agents & Brokers — its highest legislative priority three years ago when NARAB was introduced by Rep. Sue Kelly, R-NY, a member of the House Banking and Financial Services Committee. On November 12, 1999, NARAB became federal law as part of the Gramm-Leach-Bliley Act (S900).

Many regulators are concerned that NARAB will totally preempt state insurance laws and allow unregulated sales of insurance products and services. The reality is just the opposite; NARAB will strengthen state insurance regulation and ensure that it thrives.

Here is how NARAB will work:

First, the states – through the NAIC – have the power to avert the creation of NARAB. If a majority of states pass uniform licensing or reciprocity laws within the next three years, NARAB will not come into existence. If the states do not meet the three-year requirement, the NAIC will be authorized to establish NARAB as an entity controlled by state insurance regulators.

Only if the NAIC does not establish NARAB within two more years (or if it later becomes unable to oversee NARAB), would NARAB be created as an independent agency. Even during this two-year "grace period," NARAB would not be formed if a majority of the states representing at least 50 percent of the total U.S. commercial-lines premiums satisfied either the uniformity or reciprocity requirement.

In other words, the states have three to five years to address multi-state licensing issues before NARAB would be created.

As a federally chartered agency, a majority of NARAB's governing board must be state insurance commissioners. The NAIC will make recommendations to the President of the United States, who must choose a majority of the board members from the NAIC list. The chairperson of NARAB must be a state insurance commissioner.

NARAB will not provide a federal license for

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Mr. Crerar is president of the Council of Insurance Agents & Brokers, based in Washington, D.C.

What regulators should know: Mergers & Acquisitions

Joseph Belth

Observations on Financial Services Integration

Now that the federal financial services bill has finally been enacted, it may be appropriate to ask who will benefit and who will not benefit from the likely increase in merger and acquisition activity in the financial services industry. Among the beneficiaries of such activity will be officers and directors of companies that reorganize, investment bankers, consulting actuaries, and attorneys. Consumers, on the other hand, will *not* be among the beneficiaries of such activity.

Consumers

Consumers do not say anything meaningful one way or the other on the subject. Some proponents of financial services integration say consumers are demanding one-stop shopping for financial services. That is nonsense. Consumers are not demanding insurance from banks or securities firms, or securities from banks or insurance companies, or banking services from insurance companies or securities firms. Consumers are not demanding anything other than honest and fair treatment from the providers of financial services. Those who say financial services integration is in the best interests of consumers are those who stand to make money in the integration process.

Officers and Directors

Here is the kind of advice consultants give to officers and directors of mutual insurance companies: “You should demutualize or create a mutual holding company so that you will be able to use stock as acquisition currency. Everybody is reorganizing, and you will be left behind if you do not. And by the way, if you reorganize, there will be stock options, stock grants, and other goodies in it for you.” I heard about a seminar for mutual insurance company officers where the first topic on the agenda was how they could benefit financially after a reorganization.

Investment Bankers

Investment bankers are paid for giving advice about why and how insurance companies should reorganize. Investment bankers are paid for preparing opinions about the fairness of reorganizations. They are paid when insurance companies make initial public offerings. They are paid for giving advice to insurance regulators who approve reorganization plans.

Consulting Actuaries

In a demutualization, consulting actuaries are paid in connection with the complex formula used to allocate the consideration paid to policyholders whose ownership interests in the insurance company are terminated, and in connection with the development of the closed block. Even in the case of a reorganization involving the creation of a mutual holding company, where policyholders get nothing, consulting actuaries are paid in connection with the development of the closed block. They are paid for providing fairness opinions. They are paid by regulators who approve reorganization plans. In a demutualization, the regulator needs advice on both the allocation formula and the closed block. In the case of a mutual holding company reorganization, the regulator needs advice on the closed block.

Attorneys

Attorneys have to prepare many elaborate legal documents that are needed in connection with mergers, acquisitions, and other reorganizations. In addition, there are sometimes significant legal expenses from litigation about the reorganizations.

The Provident Mutual Case

An interesting example of the various expenses is the sad experience of Pennsylvania-domiciled Provident Mutual Life, which recently withdrew its mutual holding company reorganization plan. Provident’s Board of Directors initially adopted the plan in January

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Joseph M. Belth, PhD, is the editor of the Insurance Forum, Elletsville, Indiana. Mr. Belth is professor emeritus of insurance in the Kelley School of Business at Indiana University, Bloomington.

Bonnie Steingart

Regulators of Non-domestic Insurers Impeded by New Act

The popular perception of the Gramm-Leach-Bliley Act of 1999 (the "Act") is that it removes many federal and state law obstacles to affiliations among banks, insurers, securities firms and other kinds of financial service companies. While doing so, however, the Act explicitly pre-empts, *inter alia*, a broad body of state insurance laws which authorized non-domiciliary regulators to conduct a substantive review of demutualizations and other change of control transactions of licensed insurers.

Although lip service is paid to the notion of functional regulation, in addition to absolute pre-emption of state regulation in a number of areas (*e.g.*, bank sales of insurance products, affiliations, etc), the Act has federalized the power to decide which states will have a voice where state regulation ostensibly has been preserved (*i.e.*, "selective pre-emption").

In exercising this policy of selective pre-emption, the Act has disenfranchised non-domiciliary state insurance regulators — and thereby the consumers such regulators protect — from the demutualization process. In Section 306 the Act expressly prohibits any state other than the domiciliary state from reviewing or approving or disapproving a mutual insurer's plan to demutualize. The pre-emption applies regardless of whether the process involves full demutualization or the formation of mutual holding companies. Moreover, the pre-emption is not limited to circumstances where the demutualizing insurer becomes or is affiliated with a Bank Holding Company or a Financial Holding Company as those terms are defined in the Act.

Similarly, non-domiciliary state regulators are selectively pre-empted from exercising authority to review and are selectively pre-empted from taking any steps including approval or disapproval of changes of control of licensed insurers affiliating with depository institutions or affiliates of depository institutions (see Sections 104, 306).

Thus, while a non-domiciliary state may collect information, it is pre-empted from requesting changes in the structure of the transaction, the protections afforded to policyholders, the plan of operation or any other aspect of the change-of-control transaction regardless of the non-domiciliary regulator's view of the impact of the transaction on its state's policyholders as well as on all company policyholders. Lastly, given the broad language of Sections 104 and 306 of the Act, it is unclear whether there is any vitality remaining to state laws governing the conduct of and transactions among companies in a holding company system.

Absent this selective pre-emption, the New York

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What is a closed block? As part of the plan of demutualization of a mutual life insurance company, a "closed block" is established by the insurer to protect existing individual policyholders once the company has converted to stock form. A mutual life insurer would typically set aside funds in the closed block to support the "reasonable dividend expectations" of holders of certain individual particpating life insurance policies and annuity contracts. The proposed funding for the closed block is calculated by the insurer's actuaries, and the adequacy of that funding is reviewed and certified by actuaries appointed by the insurance department in the insurer's state of domicile prior to the approval of the plan of demutualization. – *The Editors*

Bonnie Steingart, a former general counsel for the New York State Insurance Department, is a partner with the law firm of Fried, Frank, Harris, Shriver & Jacobson in Manhattan

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1998. In April 1998, the Pennsylvania insurance department held a so-called public informational hearing on the plan. Among the witnesses were representatives of Morgan Stanley Dean Witter, which provided investment banking advice to Provident and had the inside track to handle any initial public offering, PricewaterhouseCoopers, which provided actuarial advice to Provident about the closed block, and Tillinghast, which provided actuarial advice to the Pennsylvania department about the closed block.

In October 1998, at the suggestion of the Pennsylvania department, Provident amended the plan. In November 1998, the department approved the plan. In December 1998, Provident sent out its policyholder information statement and asked policyholders to vote on the plan. In February 1999, Provident held a special policyholders' meeting. The company said about 21 percent of the eligible policyholders voted. Of those voting, about 89 percent voted for the plan, and about 11 percent voted against the plan.

Two days after the special policyholders' meeting, a Pennsylvania judge issued a preliminary injunction halting implemention of the plan. In September 1999, he made the injunction permanent. Eight policyholders had filed a lawsuit seeking the injunction. The judge said that the policyholder information statement did not disclose adequately the implications of the reorganization, and that the vote of the policyholders was not an informed vote. When Provident commented on the permanent injunction, the company defended the policyholder information statement by saying the document had been reviewed by "no fewer than four prominent law firms."

In October 1999, Provident withdrew the plan. According to an article in *The Philadelphia Inquirer*, Provident spent $5 million on its unsuccessful effort to reorganize. Even that figure, which may significantly understate the total cost, is a big one for a company of Provident's size.

Conclusion

The enactment of the financial services bill and the discussion of the subject make it look as though there is a consensus that financial services integration is in the best interests of consumers. However, that apparent consensus may be nothing more than agreement among people with a powerful financial interest in the integration process.

Steingart

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Insurance Law and that in a number of other states authorized the Insurance Superintendent to (1) require foreign companies to conduct business in a manner substantially similar to that required of domestic insurers and (2) conduct his/her own independent evaluation of the fairness to policyholders of demutualizations, including formation of mutual holding companies. In essence, this meant that a regulator, other than the domestic regulator, provided a second set of eyes, ears and experts to review the overall fairness of a transaction from a policyholder perspective.

Before the Act, there was no indication that such a review was anything but advantageous to policyholders (although some might have thought it to be burdensome to the companies). The vast majority of policyholders, in most cases, are not resident in the domiciliary state. In addition, the domiciliary regulator often is torn between competing constituencies especially if the demutualizing insurer is a major employer, owner of real estate, and politically influential. In both change-of-control and conversion transactions, non-domiciliary regulators in states where significant percentages of insurers reside can focus more exclusively on issues of policyholder security, consideration, and closed block sufficiency.

For example, the New York Insurance Department has over the years entered into stipulations with insurers that are in the process of converting to a mutual holding company structure (*e.g.*, Principal Mutual and National Life of Vermont) to ensure that New York has a voice in protecting policyholder value in subsequent transactions.

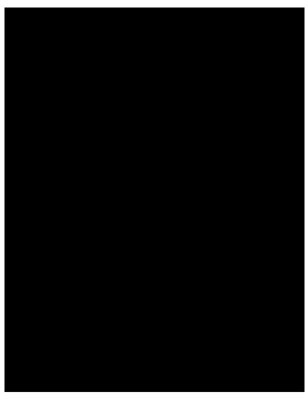
Ultimately the impact of the selective preemption of substantive review by non-domiciliary states will be most acute in states where there is limited sophistication, staff and resources available to review the change-of-control and/or demutalization transactions. Those risks are heightened in the context of mutual holding company transactions because of the continuing issues presented by undistributed policyholder value, the lack of voting control by policyholders and the insulation of the officers and directors from accountability to and oversight by policyholders.

What regulators should know: Fraud and Grand Juries

Dennis Jay

A New Weapon to Help Regulators Combat Fraud?

The recently enacted federal financial modernization legislation may hold a new arrow to place into the quiver of state regulators in their effort to fight fraud. The last provision added to the bill prior to its approval by Congress (Section 740 of the Gramm-Leach-Bliley Act) allows state “financial institution” regulators to gain access to grand jury information, including information from ongoing investigations.



The provision amends the federal criminal code (Section 3322(b) of Title 18, United States Code) by adding state financial institution regulators as eligible recipients of information from a grand jury in relation to a banking law violation. As such, the Act gives state regulators parity with federal regulators with respect to gaining access to specified federal grand jury proceedings.

IRES CDS: Next Up

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Because the amended statute specifies “financial institution” regulatory agencies, it is somewhat unclear to what degree this measure would aid insurance fraud investigations. It is possible, for example, that an insurance company subsidiary of a bank may be defined as a financial institution solely because its parent is a financial institution, thus opening the door for a state regulator to obtain information from the grand jury.

The key is that it opens the door; whether it allows insurance regulators to walk through the door still remains to be seen.

It should be noted that the provisions that were amended by Section 740 are provisions of federal law and the grand juries referred to are federal grand juries. The provisions therefore may be a tool to use in investigative efforts against those individuals and companies that the federal government suspects of defrauding investors, consumers or other companies.

Section 740 is only six lines of a 144-page law, yet it could have positive ramifications that will help minimize the economic damage caused by looting and fraud inside insurance companies. Regulators should closely examine this provision to see how it can be utilized in the ongoing fight against insurance fraud.

Dennnis Jay is the Executive Director of the Coalition Against Insurance Fraud, in Washington, D.C.

Technology, not Legislation, is Transforming the Global Financial Services Marketplace

by Scott Hoober
Special to THE REGULATOR

For all the attention being paid to the new financial services reform bill, there's a contrarian view that Congress has been a follower, not a leader — and that the bill's impact will be minimal.

After all, Citigroup was created out of a bank-insurer merger that seriously predated passage of the legislation.

Gordon Stewart, the thoughtful president of the Insurance Information Institute (I.I.I.), agrees that we're in the midst of massive change — a cycle that began several years ago and has another decade or more before it plays itself out. But he downplays the impact of S900.

"There are broad currents of change underway," Stewart said. "But they're not significantly precipitated by this legislation.

"The news," he added, "is that the impact of technology over time will be greater than the impact of financial services reform.

"First of all, the currents that led to the reform legislation have already been operating for some time — Citigroup is the most obvious example. The financial services legislation sort of makes it legal.

"The marriage has already happened; they just went to a preacher."

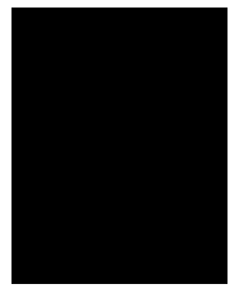
I.I.I. focuses on the property-casualty side of the industry, and Stewart admits that there may be greater commonality of interest between banks, brokerage houses and life companies. But he definitely sees no serious changes in store for P&C insurers.

Discounting the trend

This is not to say that the legislation will have no impact at all.

"It will obviously have an effect," Stewart said. "But it's been somewhat discounted by trends that have already been moving forward — with affiliations between insurance agencies and banks, affinity agreements of one kind or another which will probably increase somewhat.

"In and of itself, I don't think it's such a transforming event. In a way, it's more a recognition of things that are already happening."



Gordon Stewart

On the issue of state vs. federal regulation, he agrees that the trend, with or without S900, seems to be in the direction of an enhanced federal role.

If Stewart seems a little blasé about the impact of S900, he gets all worked up about the impact of technological change.

"Technology changes things, regardless of what they are," he said.

"The automobile, the telephone, the airplane, nuclear weapons. These things change behaviors."

And when masses of consumers change their behavior, the companies that survive by selling them goods and services had better pay attention. For in our economy, at least, it's the marketplace that runs the show.

And, Stewart adds, "there are no loopholes in behavior."

Government action matters, but it's more to moderate and influence the way businesses operate, not to tell them what to sell and how to sell it.

Historically, regulation reacts to changes in consumer behavior, and to the corporate response to that behavior — rather than predicting where things are going and getting ahead of the tide.

Take television, the last really big technological

continued on next page

Technology, not Congress, is changing the marketplace

continued from preceding page

change. The Federal Communications Commission may nibble at the edges of the way TV stations operate, but it's the mass market and the advertisers that have always dictated the shape of the medium, from *I Love Lucy* to color TV to cable.

"I don't think financial services reform changes the behavior of masses of people," Stewart said. "It changes perhaps the behavior of a small group of executives, whereas technology changes what people like you and I do.

"Technology has a more profound effect that anything else. It forces change in a way that system reforms don't."

Or, as Larry Downes and Chunk Mui put it in their recent book, *Unleashing the Killer App,* social, political and economic systems change incrementally, but technology changes exponentially.

> **In and of itself, I don't think it (the legislation) is such a transforming event. In a way, it's more a recognition of things that are already happening.**
>
> — Gordon Stewart,
> Insurance Information Institute

Regulatory wrangling

Yet change, whether brought on by technology or by legislation, will necessarily mean reaction on the part of regulators. Demutualization and the end of state-by-state licensing of agents and brokers have been mentioned as two of the many possibilities.

"That's going to have to be sorted out," Stewart said.

"There's still going to be lots of regulatory wrangling and jurisdictional squabbling taking place, but why should the effect of that be much greater than the kinds of squabbling that are already going on?"

But, he insists, it won't be the result of "suddenly unleashing a sort of dammed up demand on the part of financial-services conglomerates."

Stewart wouldn't be surprised to see some additional mergers involving life insurers and other financial services firms.

"It's an easier product for banks to get involved in, and vice versa," he said.

"The things that life companies do are all the kind of things that bankers can get hold of. But property-casualty is a complex world, and it's a separate world. It's not as easily merged and it's yet to be demonstrated that selling one thing leads to selling another.

"Aegon, for example, has no intention of being in the P&C business in the United States, but they could very well be in the life business. This is what a lot of foreign financial entities are already used to."

When it comes to doubting the synergy that's at the root of financial services reform, Stewart isn't alone.

Joe Sponholz, head of Chase.com, the new on-line arm of the banking conglomerate, also sees technology making possible what legislation cannot.

"The dream of an integrated consumer financial relationship that many of us have aspired to create for decades looks like it will be solved by the net, not by current suppliers," Sponholz said recently.

In the brokerage arena, Charles Schwab has found that selling over the Web doesn't integrate all that well with its existing bricks-and-mortar model, so it's been moving toward storefronts that support on-line customers — couches, tickers, hand-holding — but that do not house its traditional brokers.

Insurers have been reluctant to move wholeheartedly into online selling, out of concern for their corps of agents.

But one way or another, the popularity of the Web is going to change that, and has already begun to

continued on page 18

From the readers

Dear Editor,

John Reiersen's piece in the November Regulator was one of the most insightful and provocative articles I've read on the subject. As a former Deputy Superintendent of the New York Insurance Department who has returned to private industry, I believe one of the most disturbing trends in state regulation today is the outsourcing of the regulatory functions associated with the standard financial and market conduct exams.

I believe, as Mr. Reiersen does, that an examination conducted by insurance department staff produces a more coordinated, comprehensive evaluation of an insurer's financial condition than one outsourced to a consultant with a varied assortment of clients, previous employers and biases. The fact that more and more states are turning to less committed, less independent outside auditors does not bode well for state regulation.

His observations regarding the politicization of the decision-making process were also right on target.

During my 15 years in the industry, I have noticed an increasing, somewhat insidious infiltration by political forces in the regulator's daily decision-making process. The external forces that threaten the objectivity of the state regulator should be condemned by both industry and regulators as the greatest true threat to effective state regulation.

— Mark Gardner

Mr. Gardner is an attorney with General Re in Stamford, Conn., and previously served as a deputy superintendent for the New York State Insurance Department.

Dear Editor,

I read with interest the various comments put forth relative to the question,"Is State Insurance Regulation Dead?" (November Regulator) After thirty-four years in the regulatory arena, I have a perspective on that question.

The question is if one were to establish a regulatory structure from scratch, would anyone come up with the current system? I doubt it. That's because the goals of our current system have not been adequately defined. Therefore, no one has a firm grasp of what the system is supposed to do except in very rhetorical and nebulous terms like "regulate for solvency" or "protect consumers."

In general the free market system works best when there is no dominance by either consumers or insurers. However, left unfettered, free marketplaces generally do not stay in relative balance for very long. Accordingly, dislocations occur on both sides of the marketplace. Often, such dislocations are painful and costly, reflecting the inefficiencies of a free market. Therefore, the aim of a marketplace oversight system (which I believe is a better way to think of a system as opposed to a "regulatory" system) should be to maintain as much balance as possible to minimize the dislocations.

Basic to an efficient marketplace is creating balance among participants. Consumer education is a key element towards creating that balance. The current marketplace really reflects that consumers, especially at the personal level, are not being educated in risk recognition, mitigation, management or amelioration. The result is a regulatory system devised to protect the uneducated from harm. By definition, this results in a complicated regulatory scheme due to the multitude of potential "harms."

Once a marketplace oversight system is given a firm mission (*i.e.*, making sure there is as little dominance as possible), a system that accomplishes that goal is more easily devised. It's not so much a "federal vs. state" question as it is determining what needs to be done and then selecting from the best that currently exists, or inventing a new mode to meet the goal.

Mr. Reiersen sets forth the key element underlying any effective marketplace oversight system—"an adequate supply of well-trained, independent insurance examiners." I think Mr. Reiersen would permit me to extend that notion to all insurance regulatory professionals (*e.g.*, actuarial, investment, legal, *etc.*). It would be nice if such a system paid these professionals well too.

— Martin F. Carus

Mr. Carus, a former Chief of the New York Insurance Department's Life Bureau, worked on both property/casualty and life issues during his 34 years with the Department. He is currently employed by the American International Group.

Letters to the Editor can be sent to Wayne Cotter at quepasa@sprintmail.com or ireshq@aol.com

REGULATORY ROUNDUP

By
Shaun O'Brien
&
Thomas Major

FLORIDA — Increased Oversight of Viatical Industry Leads to Indictments Several months ago, the Florida Department of Insurance announced its ongoing efforts to focus more closely on the viatical industry. Its efforts, along with those of other state authorities, have finally begun to pay off. On October 26, 1999, a Florida grand jury handed out the first indictments resulting from the state's criminal probe. The indictments charged two officers of Justus Viatical Group, in Pompano Beach, with organized fraud, grand theft and insurance fraud. Allegations include withholding information concerning policyholders' medical conditions in order to obtain life insurance and the sale of over $2 million in such fraudulently obtained life policies. While more than a dozen viatical providers or brokers are currently under investigation by the insurance department, these criminal charges were the first to result from the criminal probe.

INDIANA — Indiana Supreme Court Upholds the Use of In-House Counsel
In a decision sure to be read closely in other states, the Indiana Supreme Court recently upheld an insurance company's decision to appoint its in-house counsel to represent policyholders in third party actions. The Court held that an insurance company's use of an in-house attorney to represent an insured in a third party lawsuit does not create an inherent conflict of interest as long as the arrangement is properly disclosed. Further, the employment of in-house counsel to represent its insureds is not considered to be the unauthorized practice of law. The Court did hold that use of a law-firm-like name to describe in-house lawyers violates the professional rules of conduct because it misleadingly suggests that they are outside counsel. See *Cincinnati Insurance Company v. Wills,* 717 N.E. 2d 151 (Ind. 1999)

Shaun O'Brien and Thomas Major are insurance regulatory attorneys with the law firm Baker & Daniels in Indianapolis. Shaun and Thomas are guest writing REGULATORY ROUNDUP for Dee Dee Gowan who is celebrating the birth of a beautiful baby boy, David Reid Gowan, born Nov 14.

LOUISIANA — Reduced Waiting Period for Pre-Existing Coverage Applies to Individual Certificates of Health Insurance Issued on or after January 1, 1993
In 1992, the Louisiana Legislature passed legislation that restricts a health insurer's ability to deny coverage for losses incurred due to pre-existing coverage limitations contained in the health insurance policy. The provisions of La. Rev. Stat. 22:215.12 apply generally to health policies issued on or after January 1, 1993. Recently, the Louisiana Supreme Court had occasion to consider whether such restrictions applied to individual health certificates issued to enrollees whose effective date was on or after January 1, 1993 <u>even</u> <u>though</u> the governing group policy was issued prior to that time. Finding that La.Rev.Stat. 22:215.12 was meant to confer significant benefits to the insured/consumer by reducing certain gaps in coverage that existed previously because of the broad exclusions for pre-existing coverage, the Louisiana Supreme Court reversed the Court of Appeals and held that the restrictions of La.Rev.Stat. 22:215.12 apply to new enrollees whose individual certificates of insurance were issued on or after January 1, 1993, regardless of when the governing group policy was issued. See *In re The Matter of Louisiana Health Service and Indemnity Company (dba Blue Cross Blue Shield of Louisiana),* 98-3034 (La. 10/19/99), 1999 WL 955490.

MASSACHUSETTS — Insurance Department Granted Insolvency Authority Over HMOs
In an effort to protect members of financially troubled HMOs, Massachusetts has adopted a law granting the

state's Division of Insurance the same administrative supervision, rehabilitation and liquidation authority that it possesses with respect to other insurance companies. Key provisions of the law for members of insolvent HMOs include a "hold harmless" provision preventing provider recourse against members, and a ban on denials or limits of replacement coverage by new carriers on the basis of "pre-existing" medical conditions that had been previously covered by the insolvent HMO. The law takes Massachusetts off of a short list of states that do not have laws giving HMO insolvency authority to the domestic insurance department. *For more information, you can find the law on the Web at www.state.ma.us/legis/laws/seslaw99/s1990143.htm.*

NEW YORK— Electronic Commerce Hits the Insurance Industry

On November 4, 1999, the New York State Insurance Department issued a release notifying the state's insurance industry of the state legislature's recent enactment of the Electronic Signatures and Records Act, effective March 26, 2000, which allows general business transactions, including certain insurance transactions, to be conducted entirely through electronic means. The Act does not require companies to conduct business through electronic means but supports the use of such and confirms that such transactions are legally binding. Noting that insurers should refer to the specific Code provisions when integrating electronic commerce into their business operations, Circular Letter No. 33 provides insurers with the Department's interpretation of the effect of the Act on certain provisions found generally throughout New York Insurance Law. The Department also takes this opportunity to temper its journey into the "brave new world" of e-commerce with words of caution, reminding the industry that many emerging issues — especially privacy, security and jurisdiction — will be resolved only with the passage of time as a result of court and legislative action. *For more information, see State of New York Circular Letter No. 33 (11/4/99), available through the New York State Insurance Department's web site, www.ins.state.ny.us.*

TEXAS — Arbitration Is Binding Despite Right-to-Sue Provisions

Arbitration conducted pursuant to an arbitration clause in an insurance policy that requires application of the rules of the American Arbitration Association is binding, notwithstanding a separate provision in the policy that contemplates litigation by the policyholders. That was the conclusion of the federal district court for the Southern District of Texas in *Duke v. Growers Insurance, Inc.*, 1999 WL 1009702 (S.D. Tex. 1999). In *Duke*, the plaintiff/policyholder sought to overturn an arbitrator's decision relating to a disputed crop insurance claim. The underlying policy contained both a right-to-sue provision and an arbitration clause that mandated that AAA rules apply. The court held that reference to the AAA rules in the insurance policy created a requirement that the arbitration be binding upon the parties — even though the insurance policy contained a separate right-to-sue provision.

WASHINGTON — New Regulations Require Grievance Procedures for Denials in Health Coverage

The Washington State Insurance Commissioner adopted regulations that require certain health carriers to create and use procedures that will give covered patients the opportunity for full, impartial review of grievances over denials or reductions of coverage. The regulations place time requirements on a carrier's response to patient grievances, and call for expedited review and response in cases where delay has been determined to be potentially life-threatening. The regulations also address coverage decisions made on treatments deemed "experimental" by carriers, and require carriers to include specific information on the persons and processes involved in the adverse coverage decision. *For more information, see Washington State Insurance Commissioner Matter No. R98-17, or www.insurance.wa.gov/tableofcontents/newrules/98-17103.htm.*

If you have any suggestions for topics from your state for the next newsletter, or if you have questions or want additional information about any of the above news items, please call Shaun O'Brien at (317) 237-1204 or Thomas Major at (317) 237-1087 or send an e-mail to shobrien@bakerd.com or tmajor@bakerd.com.

'The marriage already happened; they just went to a preacher.'

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change that: Most online services started out selling only existing products, but some have now moved to underwriting their own policies. In the meantime, some banks have begun emulating the Web model and are planning to offer competitors' products.

In the insurance arena, all eyes are on Allstate, which has announced a big push onto the World Wide Web. What does this all mean for regulators? One thing for sure: It's no time to be caught napping.

Globalization

How about globalization? Surely we'll see more multinational insurers as the result of S900, and that's got to have a big impact on the way the industry functions.

"Over 25% of the membership of the AIA (American Insurance Association) is already foreign-owned," said the Institute's Stewart, so once again we're looking at a trend that's been underway for some time.

The legislation will certainly make a difference, says Stewart, "by removing an impediment to something that's already happening — that's been growing.

"The AXA Group isn't going to be any different today than it was yesterday, but the legislation removes a potential impediment, and to that extent, it allows a current to continue that's already underway. But again, is that going to mean a dam breaking and all of a sudden you're going to see this new flood of foreign participants? No."

And S900 will have no effect at all on American companies buying overseas. "All the American companies that are in a position to make significant overseas investments are already making them," Stewart said.

So what's the bottom line? No change at all related to the new financial services reform bill?

Not at all, just no cataclysmic change. S.900, coupled with the millennium, may have caught the public's attention, but both events seem to have come along at a time when change was happening anyway.

Besides technological change, there's the massive shift in U.S. demographics, from the aging of the postwar baby boomers to the growth of immigrant populations. And the impact of all these trends on the industry — and the regulation of that industry — will be great, Stewart feels.

"It's all part of the historical narrative of the United States, and that's profound and important," he says.

"Where individual dates fall is meaningless," he said. "And financial services reform is kind of a landmark recognition that these currents are already happening.

"Everything is reciprocal and impacts everything else. So what will really make a difference is the actual experience of those financial entities that take advantage of these trends. And if their experience turns out to be very successful, then the consequences will turn out to be wider."

Those experiences, in turn, will lead to renewed cycles of state and federal legislation.

The impact on insurance regulation of all these changes — S900, technology, demographics, consumer preferences — will be significant indeed. The hard part is predicting which way they'll go.

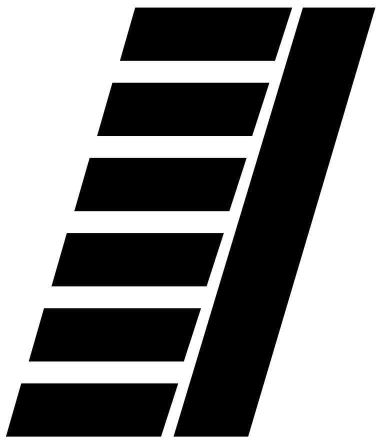
"It's hard to know what the regulatory end of it all will be," Stewart said, "The only prediction I'm absolutely certain of is that the computer will affect mass behavioral change, and I have no hedging on that. Exactly how it will affect it is ludicrous to say."

Market conduct school opens April 7

The 7th annual special market conduct school for industry

The 7th Annual IRES Foundation Market Regulation School is set for April 2-4, 2000 in San Diego. The site of this year's two-day school and regulator/industry networking event will be at the incredible Loew's Hotel on Coronado Island. Our previous and very popular west coast site has been the Del Coronado Hotel. However, the *Del* is undergoing extensive renovation for the next five years. If you enjoyed the Del, you will love the Loews.

NAIC President and Kentucky Commissioner George Nichols will deliver a keynote address as will Texas Commissioner Jose Montemayor. Also planning to provide an exciting keynote will be the Hon. Jackie Speier of the California Legislature. Senator Speier has been an activist and outspoken commentator on the insurance industry. Special guest humorist Rex Havens will provide some provocative and very funny perspectives at the Tuesday outdoor luncheon by the Harbor.



This year's theme of "Market Conduct Regulation — *Focus on the Future*" could not be more appropriate as we head into year 2000. Along with the program fundamentals of market conduct regulation by each state, special sessions will focus on banking, privacy and confidentiality, and electronic commerce. Third party bad faith, the *after-effect* of the after market parts litigation and the real meaning of The Financial Modernization Act of 1999 will be explored by leading experts. These are all issues that pose challenges for insurers, regulators, agents and consumers alike.

We expect an unprecedented turnout to arrive early for the networking golf event and to stay through Wednesday. Tuesday night will feature the third annual networking beach party sponsored by California-based Sonnenschien, Nath & Rosenthal. This special event will be right on the ocean with music, refreshments and sand in your toes. You will be sorry if you leave early. As an extra reason to stay through Tuesday night, the IRES Foundation will be awarding one fortunate attendee a brand new state-of-the-art laptop computer. Everyone has an equal chance to win but you must be present Tuesday at the schools close to win. The laptop is just one way of thanking the attendees and marking the end of this century's emphasis on communication. We expect some other very interesting and nice gifts to be awarded as well. Make your travel plans and hotel reservation now.

The IRES Foundation schools have been a prime opportunity for the Foundation to raise funds for insurance regulator education programs. Accordingly, many fine companies have found the school to be an excellent vehicle for their charitable and educational donations. If your company is interested in sponsoring this school in some way, just call the IRES office. We make donating easy! Sponsors are generously recognized for their support of the IRES Foundation and its educational mission.

A few logistical notes for those attending. A rental car is the best way to travel. San Diego Airport is very close to the city and to Coronado Island. Driving is very easy. The Loews sits off by itself as a resort so you cannot just walk downtown. But once you are there, with all the shops and restaurants and entertainment, there is no real reason to leave.

Premier Ride Limousine Service offers exceptional Town Car Service from the airport for about $30.00. Just call 800-556-7433 to arrange a ride. Taxi service is another option but slightly more expensive. Register now and make your room reservation with the Loews before March 1 by calling 619-424-4000. Availability may be limited. Mention the IRES Foundation to receive the lowest room rate of $225.00 a night. All the rooms are superior and offer luxury accommodations.

To register call 913-768-4700

Or e-check out our web site at www.ires-Foundation.org

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The Act permits the adoption of 13 categories of state insurance sales laws that treat bank insurance sales differently than non-bank related insurance sales. These 13 so-called "safe harbors" permit states to adopt laws like anti-tying regulations and regulatory disclosure requirements.

Federal Banking Agency Sales Practice Regulations

Within 12 months of the Act's effective date, banking agencies must promulgate rules governing bank insurance sales practices. These rules will include:

- A prohibition on tying and coercion.
- Disclosures informing customers that insurance products are not FDIC insured and may carry investment risk.
- Insurance sales must be separated from teller windows.

Current Operations – Expanded/Restructured

Most banks currently are engaged in some kind of insurance sales or insurance underwriting activity. Commonly, they have credit insurance companies and insurance agencies that market credit life insurance, life insurance and annuities. Most national banks have established an insurance agency pursuant to §92 of the National Bank Act. The following describes how a hypothetical mid-sized bank holding company (XYZ Corporation) might capitalize on, or restructure its insurance subsidiaries.

> **"The Act permits the adoption of 13 categories of state insurance sales laws that treat bank insurance sales differently than non-bank related insurance sales."**

Doors Open to Expand Underwriting

When the XYZ Corporation elects to be a FHC, it will be able to acquire or incorporate *de nova* insurance and reinsurance companies. Permitted activities include underwriting of life and health insurance, annuities, property-casualty insurance, title insurance and miscellaneous coverages. Being able to underwrite insurance as a primary carrier or as a reinsurer opens up the possibility of creating proprietary products with the opportunity to share in underwriting profit. The XYZ Corporation could establish or acquire a reinsurance company and reinsure a portion of the risk on primary insurance marketed by their agents.

Existing Underwriting Activities – Continued/Expanded

The XYZ Corporation has a subsidiary national bank that is prohibited from underwriting insurance unless those activities are "grandfathered" by the Act's statutory exceptions. This National Bank is fortunate. It's Mortgage Reinsurance Company and Credit Property Insurance Company will both be able to continue underwriting activities under the new law because the OCC had authorized the underwriting of private mortgage insurance and credit property insurance prior to Jan. 1, 1999.

The XYZ Corporation also has a credit life reinsurance company and, pursuant to a special provision in the Bank Holding Act, a life insurance company that underwrites annuities for XYZ employee pensions. Because both of these companies are subsidiaries of a FHC, they can continue underwriting activities. In fact, both companies could expand their underwriting to include life insurance and market these products through their agency force.

Sales

The XYZ Corporation and its national bank will be able to restructure existing agency operations. Its national bank will no longer be required to continue agency activities in a place of less than 5,000. The XYZ Corporation subsidiary credit life agency will now be able to sell all lines of insurance, rather than just credit-related insurance.

Because the new law authorizes banks and FHCs to market insurance in all jurisdictions, it is now possible for the XYZ Corporation and XYZ bank subsidiaries to market insurance in all 50 states. Under current law, the XYZ bank has only been authorized to market insurance in 45 states.

Summary

This voluminous, complicated legislation will be subject to interpretation and litigationfor years to come. For example, regulators are concerned that the anti-discrimination sections in the Act may impede their efforts to protect consumers. while bank insurance executives are worried that interpretations of the 13 regulatory "safe harbors" may permit regulatory officials to treat bank sales activities unfairly.

The current regulatory environment has been unstable, slow to respond to changing economic conditions and highly litigious. With the enactment of Gramm-Leach-Bliley, we look to the future with cautious optimism.

Ken Crerar

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insurance sales. Rather, it will serve as a clearinghouse for multi-state licensing so that services may be more efficiently provided to policyholders. NARAB will be charged with imposing licensing and professional qualification requirements that exceed the standards of any current state law. It will have the authority to reduce duplicative regulatory requirements that are now imposed on agents and brokers who do business in more than one state.

States will continue to collect licensing fees, regulate insurance agents and brokers, and keep the ability to discipline producers and revoke licenses. No unfair trade practices acts will be preempted. And NARAB will complement, not preempt, the NAIC's Producer Information Network (PIN) and the Producer Database (PDB).

However, NARAB members will get the benefit of one-stop shopping for licensing. Once the licensing criteria are satisfied under NARAB regulations, the agent or broker can check off the states in which he or she wishes to be licensed, with no additional requirements.

Membership in NARAB will be purely voluntary, open to all state-licensed insurance producers. And because it is designed to be a privately financed and managed company, taxpayers will not cover any of NARAB's operating expenses. The entire NARAB budget will be funded by its member insurance producers through fees and assessments. This concept is not new; it is purposefully modeled after the National Association of Securities Dealers.

In sum, NARAB will help improve state insurance regulation, either by leading the states to make changes on their own over the next three years, or as a new entity. Either way, it will play a vital role in helping the country realize George Miller's original vision of an efficient, uniform system.

As we enter the 21st Century —a fast-changing world of integrated and global financial services – we have no other choice.

Torres

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to make sure it is accurate and complete, and customers should have the ability to correct erroneous information.

Consent A financial institution should receive prior affirmative consent of the customer before it uses and/or discloses that customer's information for any other purpose than for which it was originally given.

No customer should be denied any product or service by a financial institution for refusing to give consent to the disclosure of the customer's personal information except where necessary to determine eligibility for a specific financial product or service.

Consumers should have the right to be fully and meaningfully informed about an institution's practices. Consumers should be able to choose to say "no" to the sharing or use of their information for purposes other than for what the information was originally provided. Consumers should have access to the information collected about them and be given a reasonable opportunity to correct it if it is wrong. In addition to full notice, access, and control, a strong enforcement provision is needed to ensure that privacy protections are provided.

Passage of this bill does not mean the end of the debate over financial privacy. Lawmakers on Capital Hill have already introduced legislation to plug the loopholes in the modernization bill and provide meaningful privacy protections for consumers. And the Gramm-Leach-Bliley bill allows states to pass stronger financial privacy protections. Such an approach could lead to a patchwork of different state laws that would in all likelihood prove to be unworkable for the financial services industry.

Al Greer Achievement Award
Nomination Form

The Al Greer Award was conceived in 1997 and will annually honor an examiner who not only embodies the dedication, knowledge and tenacity of a professional regulator, but exceeds those standards.
Current members of IRES Board of Directors are not eligible for nomination.

A. Basic requirements for nominees include the following:
- **(1) Five (5) years as an IRES regulator member and a current member**
- **(2) Ten (10) years regulatory experience**

Please return completed *form* and *nomination letter* by no later than April 30, 2000 to: IRES (Al Greer Achievement Award), 130 N. Cherry, Suite 202, Olathe, KS 66061

B. Nomination procedure requirements:
- **(1) Completed nomination form**
- **(2) Validation of nomination must be signed by at least three (3) current IRES regulatory members**
- **(3) Attach a nomination letter of not fewer than 50 words or more than 100 words**
- **(4) Send completed form and nomination letter to IRES by no later than April 30, 2000.**

NOMINEE INFORMATION:

Name: ____

Address: ____
Telephone: Work: ________________ **Home:** ________________

FAX: ________________

Education / Designations: ______________________________

Insurance Regulatory Examination Experience:

____

____

Current Position and Employer:
(make note if nominee is a contract examiner and give jurisdiction currently contracted with)

____

NOMINATION VALIDATION:
(signature/name of three current members making nomination)

____
Signature/Name

____
Signature/Name

____
Signature/Name

Selection Process

Nominations will be accepted from the date the nomination form is placed in *The Regulator* through April 30. All nominations must be postmarked no later than April 30 prior to the next IRES Career Development Seminar.

The Al Greer Achievement Award Sub-committee will then determine nominees who meet the basic requirements and nomination requirements.

Nominees making it through the sub-committee process will be voted on by the members of the Membership and Benefits Committee with the nominee receiving the most votes being the recipient of the award. In case of a tie the entire Board of Directors will vote to determine the winner. (In either instance, only one vote per committee member or board member.)

The counting of votes will be conducted by the chair and vice-chair of the Membership and Benefits Committee along with the executive secretary of IRES. The winner will be kept confidential until announced at the next CDS.

IRES 2000 Career Development Seminar

JULY 30-AUG. 1, 2000 NEW ORLEANS
HYATT REGENCY NEW ORLEANS

Official Registration Form

Fill out and mail to The Insurance Regulatory Examiners Society
130 N. Cherry, Suite 202, Olathe, KS 66061

Yes! **Sign me up for the Year 2000 IRES Career Development Seminar. My check payable to** IRES **is enclosed.**

Name ______________________________

Title ______________ First name for Badge ______________

Insurance department or organization ______________________________

Your mailing address Indicate: ☐ Home ☐ Business

City, State, ZIP ______________________________

Area code and phone ______________ $ ______________ Amount enclosed

Seminar Fees

(includes lunch, cont. breakfast and snack breaks for both days)

Check box that applies

- ☐ IRES Member (regulator) $225
- ☐ Industry Sustaining Member ... $375
- ☐ Non-Member Regulator $325
- ☐ Retired IRES Member $90
- ☐ Industry, Non-Sustaining Member $650
- ☐ Spouse/guest meal fee $70

____
Spouse/Guest name

If registering after July 1, add $40.00. No registration is guaranteed until payment is received by IRES.

Hotel Rooms: You must book your hotel room directly with the Hyatt Regency. The room rate for IRES attendees is $120 per night for single-double rooms. Please call group reservations at 800-233-1234 or 504-561-1234. The IRES convention rate is available until July 9, 2000 and on a space-available basis thereafter.

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, please notify us at 913-768-4700 at least five working days before the seminar. The Bally's facilities comply with all ADA requirements.

SPECIAL DIETS: If you have special dietary needs, please circle: Diabetic sherKo Low salt Vegetarian

CANCELLATIONS AND REFUNDS

Your registration fee can be refunded if we receive written notice before July 1, 2000. No refunds will be given after that date. However, your registration fee may be transferred to another qualifying registrant. Refund checks will be processed after Aug. 20, 2000.

Seating for all events is limited. IRES reserves the right to decline registration for late registrants due to seating limitations.

Insurance Regulatory Examiners Society

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A SPECIAL REPORT

BULLETIN BOARD

√ **Welcome new IRES members:** Nancy L. Barnes, Washington, James M. Boggs, III, Texas; Sharon Burton, Kentucky; Todd P. Cioni, Maryland; Mark J. Duffy, Connecticut; Pamela Farmer, Kentucky; William P. Hobert, CIE, Arizona: Joe B. Johnson, N. Carolina; Susan T. Stead, Ohio; Dee Ann Teseneer, AIE, Alaska; Ray Tsang, Alaska. *Correction from November- Douglas R. Hartman is with Alaska Dept.*

√ **CORRECTION:** In the November issue, Kathleen McQueen, Frank Seidel and Jann Goodpaster were inadvertenly omitted from the list of members of the Publication Committee that appears on page two.

√ Year 2000 dues notices have been sent out. In fact you should have received one by now. If you have changed address lately, call us right away. To maintain your AIE/CIE designation, You must keep your membership dues current and comply with the Society's continuing education program.

√ Arthur Andersen LLP, a leading international professional service firm, is seeking experienced insurance examiners to perform financial and market conduct examinations of insurance companies. The position requires travel and no relocation is necessary. Requirements include a Bachelors degree, Accredited/Certified Financial or Insurance Examiner designation and three plus years of financial or market conduct examination, public accounting or other insurance audit experience. CPA designation a plus. Significant opportunity for advancement. Salary commensurate with experience. Please submit your resume along with salary history and requirements to: Arthur Andersen LLP, Director of Human Resources, One Financial Plaza, Hartford, CT 06103. We are an Equal Opportunity/ Affirmative Action Employer.