MAYER·BROWN

Bulletin
March 2011

Insurance Industry Group: Global Corporate Insurance & Regulatory Bulletin

EU – Solvency II – EIOPA has announced the results for the Fifth Quantitative Impact Study

On 14 March 2011, EIOPA announced the results of the Fifth Quantitative Impact Study (**"QIS5"**). The purpose of QIS5 was to assess the practicability, implications and impact of specified approaches to (re)insurers' valuation of assets and liabilities as well as capital setting under Solvency II.

Almost 70% of all (re)insurance companies who will fall under the scope of Solvency II participated in QIS5; up from 33% participation in QIS4. Overall, QIS5 showed that the financial position of the European (re)insurance sector assessed against the Solvency Capital Requirements (**"SCR"**) of Solvency II remains sound.

For (re)insurance groups, QIS5 resulted in a reduction in their capital surplus (of around 44%). However, this reduction would be significantly less marked (only a reduction of 1%) if those groups used internal models and transitional measures to calculate their capital requirements under Solvency II.

QIS5 also revealed that the areas of governance, risk management and reporting requirements require further attention by (re)insurers in the lead up to Solvency II. The main lesson learned from QIS5 was that the (re)insurance industry not only needs to pay attention to the level of their capital requirements, but also the quality of the capital.

Sarah Russell

US – NAIC CEO Comments on IAIS Common Framework at Meeting of NAIC Solvency Modernization Initiative Task Force

On March 28, 2011, Therese M. Vaughan, the Chief Executive Officer of the National Association of Insurance Commissioners (**"NAIC"**), addressed a meeting of the NAIC Solvency Modernization Initiative (**"SMI"**) Task Force and outlined her views on how the "Common Framework for the Supervision of Internationally Active Insurance Groups" (**"ComFrame"**) being developed by the International Association of Insurance Supervisors (**"IAIS"**) should be applied in the US. In addition to being the CEO of the NAIC, Dr. Vaughan is a former Insurance Commissioner of the State of Iowa, holds a Ph.D. in Risk and Insurance, is a former Professor of Insurance and Actuarial Science and is co-author of several insurance textbooks.

Dr. Vaughan's comments on the implementation of ComFrame included five main observations:

1) We need to be clear on the problems we are trying to solve. In Dr. Vaughan's view the key problems to be addressed are:

   - Competition among regulatory regimes and geographic arbitrage – concern about a "race to the bottom."
   - Inefficiency of insurers having to comply with multiple regulatory regimes and a fragmented regulatory system – concern about regulatory overlap particularly with regard to group supervision.
   - Concentration of risk in unregulated affiliates of insurance companies – e.g., financial products affiliates.

2) This is more about supervision than it is about regulation.

   - Regulation involves creating more rules.
   - Supervision involves human beings with the knowledge, experience and intuition to watch what is going on in the marketplace and identify potential problems before companies get into trouble – supervision is "refereeing the game" as opposed to making the rules of the game.
   - Regulatory capital requirements, while important and always in need of improvement, will never be able to do the whole job of enterprise risk management.

3) The relationship between the group or lead supervisor and the other supervisors should create the proper incentives.

   - In the US state-based regulatory system, there is considerable reliance on domiciliary regulators.
   - At the same time, non-domiciliary state regulators need the ability to oversee insurers' activities in their states.
   - The appropriate incentive is for the group or lead supervisor to have primary oversight responsibility, but to be accountable to the other supervisors.

4) Particular attention should be paid to creating mechanisms that facilitate information sharing.

   - Robust information sharing is the key to effective supervision.
   - It is also necessary for the non-domiciliary regulators to monitor whether the domiciliary regulator is doing its job.
   - We need a consistent benchmark for measurement.

5) Incremental change is better than revolutionary change.

Of particular relevance to the foregoing observations is the "White Paper on High-Level Corporate Governance Principles for Use in U.S. Insurance Regulation" that the SMI Task Force's Corporate Governance Working Group voted to publish for a 45-day public comment period. Some commentators have already suggested that the White Paper relies too heavily on principles drawn from a European model of corporate governance that may not be well suited to the US corporate governance framework. That is a discussion that will bear watching in the ensuing months.

Lawrence Hamilton

China – Implications of Article 23 of the Amended People's Republic of China Insurance Law

The People's Republic of China (**"PRC"**) Insurance Law was substantially amended in February 2009, and such amendments became effective in October 2009. Noting that this law has been implemented and enforced for over a year, insurers have become increasingly concerned in particular with respect to restrictions imposed by the amendments and implications on the handling of claims. We address here Article 23 of the amended PRC Insurance Law, which concerns the requirement for insurers to a) confirm a coverage position for a validly notified claim within 30 days from receipt, and b) be restricted to make a single request for documentation and information before rendering the coverage confirmation. In response to the amendments, insurers may consider adopting some of our suggestions as set out below.

Considering the range and depth of the amendments, it appears to us that this statutory regime is a reflection of the PRC Government's stance and its concerns in the Chinese insurance sector after its years of rapid development. The statutory regime has also been frequently used in Court after its amendment.

The effect of Article 23 is as follows:

1. After receiving a claim by the insured or beneficiaries for indemnity or insurance benefit, the insurer must render its determination in a timely manner, or for a "complex" claim, render its determination within 30 days unless otherwise provided in the insurance policy.
2. The insurer must notify the insured or beneficiaries of the result of the determination.
3. Any indemnity payments must then be made within 10 days upon reaching agreements with the insured or beneficiaries on the indemnity or payment of the insurance money after the confirmation of coverage or within the timeframe specified in the policy.
4. If the insurer fails to meet these deadlines, it may be liable to compensate the insured for any loss that it has suffered as a result of the delay.

Article 23 was acknowledged as one of the major improvements made in the amendments. As to its implications, there was one case in which an insurance company lost a lawsuit for failing to comply with the requirement to render a coverage confirmation in a timely manner. Please note that the law specifically provides for the time limit for "complex" situations to be within 30 days or otherwise agreed in the insurance policy. The law does not provide for a definition of "complex" situation, and this would be a matter to be decided on a case by case basis. As no guidance has been provided as to the interpretation of the meaning of "complex" situations, it is subject to different interpretations by insurers, the insured and the courts. Accordingly, in an attempt to limit the parameters of the interpretation, we suggest that insurers may consider setting out a) a longer time limit in the insurance policy, and b) a broader definition of the term "complex". However, please bear in mind that whether such practice or definition is ultimately upheld by the courts remains to be seen.

In addition to providing a timely response by insurers to confirm a coverage position, please also note Article 24 of the amended PRC Insurance Law, which provides that if a claim does not fall within the insurer's liability, the insurer must give an informed written notice declining cover to the insured or beneficiaries within three days from the date of rendering a coverage confirmation.

Article 22 of the amended PRC Insurance Law provides that insurers have only a single chance to request for documentation and information before rendering its coverage position. In response to this, some insurers have been making a "catch-all" request for documents and information at the outset. To our knowledge, such practice has not yet been tested in Court.

Angela Yim, Andy Yeo and *Alan Tang*

EU – Court of Justice of the European Union judgment in gender discrimination case

Introduction

The Court of Justice of the European Union (**"ECJ"**) has ruled on 1 March 2011 that the treatment of gender in insurance and other related financial services matters infringes the principle of equal treatment between men and women in the access to and supply of goods and services.

According to the ECJ, this principle is a fundamental right incorporated in, amongst other places, the Charter of Fundamental Rights of the European Union.

The ECJ ruling was in response to a reference for a preliminary ruling from a Belgium court in relation to proceedings brought by, amongst others, the Belgian consumer association, Test-Achats.

Ruling

In its ruling, the ECJ held that in order "*to ensure equal treatment between men and women [as implemented by Council Directive 2004/113/EC of 13 December 2004], the use of sex as an actuarial factor should not result in differences in individuals' premiums and benefits*".

The ECJ took the view that the respective situations of men and women with regard to insurance premiums and benefits contracted by them are comparable. To treat them as not being comparable would be direct discrimination on grounds of sex.

This situation was contrasted by the ECJ, by way of an example, with the situation involving the provision of healthcare services, which can involve differences in treatment between men and women but which would not be discriminatory as this difference in treatment is as a result of the physical differences between men and women.

The ECJ made it clear that its ruling does not apply in matters of employment and occupation because there are already a number of existing legal instruments for the implementation of the principle of equal treatment between men and women in these areas.

To avoid what the ECJ calls a "*sudden readjustment in the market*", the implementation of its ruling is to only apply to new contracts concluded with effect from 21 December 2012.

Transitional period

Until 21 December 2012, a transitional period is effectively to apply.

During this period, Member States may, where relevant, continue to permit an exemption from the rule of unisex premiums and benefits to allow for "*proportionate differences in individuals' premiums and benefits to be taken into account where the use of sex is a determining factor in the assessment of risks based on relevant and accurate actuarial and statistical data*".

Such an exemption is only allowed, however, where a Member State's national legislation has not already applied the unisex rule. This exemption would consequently be applicable in the United Kingdom.

Potential impact

No doubt, insurers and other relevant providers of financial services will breathe a sigh of relief that the ECJ ruling does not apply with immediate effect or, worse still, with retrospective effect, as was feared by some.

In the United Kingdom, the transitional period will allow relevant providers to consider what changes need to be made to systems, quote engines and the like to bring them in line with law. The work involved in doing so should perhaps not be underestimated.

Inevitably, the focus of attention will be on the implications of the ruling for customers. What seems clear is that motor insurance prices are likely to rise for women. How soon these price increases come through will remain to be seen.

It is not all bad news for women though. It is likely that annuity rates for men will fall as providers will not be able to factor in reduced longevity.

Finally, another potential issue is whether this ruling will be the thin edge of a wedge and there will be further cases in the future challenging insurers and related financial services providers on other grounds of discrimination (for example, age).

Martin Mankabady

Brazil – New Regulations Affecting the Insurance and Reinsurance Industry

On December 10, 2010, the Brazilian National Private Insurance Council (**"CNSP"**) published in the National Gazette two new Resolutions (224/2010 and 225/2010) effective as of March 31, 2010, which affected directly the reinsurance market, including foreign reinsurers with branches in Brazil. These resolutions provided two significant changes: (i) local reinsurers would no longer have the right of first offer on 40% of reinsurance cession, instead, there would be the obligation to contract at least 40% of any reinsurance risk with local reinsurers; and (ii) local reinsurers could no longer transfer any liability under insurance, reinsurance or retrocession undertaken in Brazil to any parent of affiliated reinsurance company abroad.

These new rules led to a strong complaints from the reinsurance market that argued that the Brazilian reinsurance companies is unprepared to undertake such an amount of risk. Following intense debate on the media and pressure from the

industry's representatives, on March 28, 2011, the government finally published Resolution CNSP 232/2011 that revoked Resolution 224/2010 and now permits local insurers to transfer 20% of their risks undertaken in Brazil to parent or affiliated companies based abroad. Furthermore, each insurer and reinsurer companies will be responsible to monitor compliance with the 20% threshold. However, risks associated to performance bonds, exportation credits, internal credits, nuclear risks and rural are not subject to the 20% cession to an affiliated company abroad and may be transferred freely. The obligation to contract 40% of the reinsurance risks with local reinsurers remains valid.

Guilherme Vieira da Silva

UK – Responses to the European Commission's Insurance Mediation Directive review consultation

Two notable responses to the European Commission's consultation on the review of the Insurance Mediation Directive (**"IMD"**) have recently been published, one by the Financial Services Consumer Panel (**"FSCP"**) and the other being a joint response by HM Treasury and the Financial Services Authority (**"FSA"**).

Financial Services Consumer Panel

The FSCP is a body established under the Financial Services and Markets Act 2000 to represent the interests of consumers. They released their response on 28 February 2011.

The FSCP support many of the proposals within the consultation paper. They are calling for the introduction of a general overarching principle that advisers and sales staff act in the best interests of their clients. They believe that this, together with greater pre-sale transparency around remuneration and conflicts of interest, should go some way towards ensuring a fairer market for consumers.

The FSCP have called for a minimum harmonisation approach, owing to the diverse nature of markets and products in Member States. They feel that, whilst it is important that consumers can be confident of a set of minimum standards in sales procedures and protection measures, it is important that national regulators have the flexibility to apply tailored requirements where circumstances demand.

They comment that the IMD review is likely to lead to fairly radical changes to the retail investment and insurance markets (especially as it is being undertaken alongside the review of the Markets in Financial Instruments Directive (MiFID) and the consultation on legislative steps for the Packaged Retail Investment Products initiative (PRIPS)). As such, the FSCP believe it is important that the European Commission approves at the outset a comprehensive post implementation review, in order to assess in particular the impact on consumer outcomes, including any rise in the cost of products and advice.

The FSCP's full response can be read here.

HM Treasury and the FSA

A joint response from HM Treasury and the FSA (together, the **"UK"**) was also released on 28 February 2011.

The UK welcomes the European Commission's review of the IMD, and support the Commission's desire to update the IMD to ensure strong consumer protections. They refer to a public hearing in Brussels in December 2010 in which Commissioner Barnier set out his priorities, being transparency, management of risk, and elimination of conflicts of interest, and state that they believe those areas are the right ones to focus the consultation on.

The UK thinks it is important to focus on the desired outcomes and ensure that the approach taken is proportionate to the desired outcome and the conditions in the affected sectors. They support the Commission's desire to use the review of the IMD to guarantee a level playing field between all participants involved in the selling of insurance products, and the expansion to direct sales, although they comment that the requirements on direct sales must be proportionate. They agree that the IMD should remain an activity-based directive, and argue that the number of exceptions should be kept to a minimum, balancing the need for consumer protection against industry cost.

The UK believes that a key area where differing provisions for direct sales and intermediaries should occur is transparency and conflicts of interest. Whilst they believe all firms and individuals should be required to act honestly, professionally, and in line with the interests of their customers, they do not think that it is necessary to require firms proactively to disclose remuneration, and favour only introducing an 'on request' disclosure regime for remuneration for brokers. They do not think it would be appropriate to extend all of the information requirements in Article 12 of the IMD to direct sales in every case, as some of the provisions are very specific to insurance intermediation.

The UK believes the proposal for minimum basic common principles for professional requirements, with Member States having the freedom to adopt specific standards for both intermediaries and direct sales, is a sensible one, which is in line with the diversity of practice across Europe. Further, they also favour a minimum harmonisation approach for both intermediaries and direct sales, with regulators being left with the freedom to take specific, tailored action in response to national issues and risks.

The joint response can be read here.

Annemarie Payne

US – New Jersey Enacts Law Allowing for Reduced Collateral Requirements for Unauthorized Reinsurers

New Jersey Governor Chris Christie signed the "Reinsurance and Surplus Lines Stimulus and Enhancement Act (A-2670/S-2010, the **"Act"**) into law on March 22, 2011. The Act permits the Commissioner of the Department of Banking and Insurance (the **"Commissioner"**), in the Commissioner's discretion, to allow insurers to receive credit for reinsurance obtained from unauthorized reinsurers that post less than 100% collateral in certain situations. The Commissioner may allow credit for reinsurance if the assuming insurer holds surplus or the equivalent in excess of $250 million and meets certain other requirements. When determining whether credit should be allowed, the Commissioner will take into account the financial strength ratings of the reinsurer; the domiciliary regulatory jurisdiction of the reinsurer; the structure and authority of the domiciliary regulator with regard to the solvency regulation requirements and the financial surveillance of the reinsurer; the substance of financial and operating standards for reinsurers in the domiciliary jurisdiction; the form and substance of financial reports required to be filed by the reinsurer in the domiciliary jurisdiction or other public financial statements filed in accordance with generally accepted accounting principles; the domiciliary regulator's willingness to cooperate with US regulators and the Commissioner; the history of performance by reinsurers in the domiciliary jurisdiction; any documentation of substantial problems with the enforcement of valid US judgments in the domiciliary jurisdiction; and any other matters the Commissioner deems relevant. The Commissioner will give appropriate consideration to insurer group ratings that may have been issued and may reduce the amount required to be held in trust under the Act in lieu of granting full credit. Instead of a sliding scale for collateral requirements using ratings-based criteria, as has been seen in other states, the Act leaves collateral requirements to the discretion of the Commissioner. The Act also establishes a process for a domestic insurer with policyholder surplus in excess of $15 million to be designated as a domestic surplus lines insurer, which will be considered an eligible, unauthorized insurer for purposes of writing surplus lines coverage. The Act will become effective on June 20, 2011, but the Commissioner may take anticipatory administrative action in advance to facilitate the implementation of the Act.

Both New York and Florida have also adopted changes to reduce the collateral requirements for unauthorized reinsurers. Florida's reduced collateral requirements apply only to property and casualty reinsurers, whereas New York's reduced collateral requirements apply to both life and property and casualty reinsurers. The New Jersey Act applies to both life and property and casualty reinsurers, although the provisions applicable to life reinsurers will not become effective until the earlier of 24 months from the effective date of the Act or the implementation of principles-based standards of life insurance reserving by the National Association of Insurance Commissioners. Please see "Florida Allows Additional Reinsurer to Operate with Reduced Collateral" in this Bulletin and "Changes to NY Credit for Reinsurance Regulations Now Effective" in our January 2011 Global Corporate Insurance & Regulatory Bulletin for additional information with respect to the Florida and New York provisions.

David Alberts and *Lawrence Hamilton*

EU – European Insurance and Occupational Pensions Authority announces members of new stakeholder groups

On 8 March 2011, the European Insurance and Occupational Pensions Authority (**"EIOPA"**) announced the members of its two stakeholder groups, the Insurance and Reinsurance Stakeholder Group and the Occupational Pensions Stakeholder Group.

Each group will include 30 members, and will facilitate EIOPA's consultation with European stakeholders on issues such as regulatory and implementing technical standards, and the guidelines and recommendations that apply to the insurance and occupational pensions industry. Members of the groups can submit opinions and advice to EIOPA on issues related to its task, and are expected to notify EIOPA of any inconsistent application of European Union law and inconsistent supervisory practices.

The Insurance and Reinsurance Stakeholder Group is comprised of ten industry representatives, five consumers, eight users of insurance and reinsurance services, two representatives of trade unions and five independent academics.

Both groups are expected to meet for the first time at the start of the second quarter of 2011, and will meet a minimum of four times per year. Members may serve up to two consecutive terms of two and a half years each.

The press release, which includes the list of members for each group, can be accessed here.

Annemarie Payne

US – Michael McRaith, Illinois Director of Insurance, Named Director of Federal Insurance Office

On March 17, 2011, Secretary of the Treasury Timothy Geithner announced that Michael McRaith, the current Director of the Illinois Department of Insurance, has been selected to head the Federal Insurance Office (**"FIO"**). The FIO was created under Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (**"Dodd-Frank Act"**). Eight months have elapsed since the Dodd-Frank Act was enacted, so the new FIO Director will become busy quite quickly. The FIO has the authority to monitor all aspects of the insurance industry (including identifying issues or gaps in regulation that could contribute to a systemic crisis in the insurance industry or US financial system), to monitor the extent to which traditionally under-served consumers have access to affordable insurance, to recommend to the Financial Stability Oversight Committee (**"FSOC"**) that an insurer (including affiliates of such insurer) be designated as an entity subject to enhanced regulation pursuant to Title I of the Dodd-Frank Act, to assist in the administration of the Terrorism Insurance Program established in the Department of the Treasury, to coordinate and develop federal policy on prudential aspects of international insurance matters, and to determine any pre-emption by state insurance measures of international insurance agreements. In order to perform these functions, the FIO is empowered to obtain information from insurers and affiliates and has subpoena power to assist in the gathering of such information.

The FIO Director also serves in a number of advisory roles. He advises the Secretary of the Treasury on major domestic and prudential international insurance policy issues and occupies a non-voting seat on the FSOC. The FIO Director is also responsible for preparing several reports concerning the insurance and reinsurance industries. Within 18 months after the enactment of the Dodd-Frank Act (i.e., by January 21, 2012), the FIO Director is required to conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States. In addition to that study, the FIO Director is required to submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report describing the breadth and scope of the global reinsurance market and the critical role that such market plays in supporting insurance in the United States (not later than September 30, 2012) and a report describing the impact of the "Reinsurance" section of the Nonadmitted and Reinsurance Reform Act of 2010 (which is Subtitle B of Title V of the Dodd-Frank Act) on the ability of state regulators to access reinsurance information for regulated companies in their jurisdiction (not later than January 1, 2013 and updated not later than January 1, 2015).

David Alberts and *Lawrence Hamilton*

US – Florida Allows Eleventh Reinsurer to Operate with Reduced Collateral

On March 23, 2011, the Florida Office of Insurance Regulation (**"FLOIR"**) issued an order authorizing another Bermuda-based property and casualty reinsurer to post reduced collateral and operate in Florida as an eligible reinsurer. In 2007, Florida's legislature approved several insurance reforms intended to increase the amount of reinsurance available to insurers in the state. The 2007 legislation was followed in September 2008 by Florida Administrative Code Rule 69O-144.007 (**"Credit for Reinsurance from Eligible Reinsurers"**), which allows Florida property and casualty insurers to receive credit for reinsurance from an "eligible" unauthorized reinsurer posting less than 100% collateral if the reinsurer meets certain criteria. An "eligible" reinsurer must have a surplus of over $100 million; it must be an authorized insurer in its home jurisdiction for the type of insurance to be ceded; and the home jurisdiction must also be "eligible" in accordance with a determination of the Florida Insurance Commissioner. The reduced amount of collateral required to be posted is determined on a sliding scale based on the financial strength rating of the eligible reinsurer. In February 2010, the first non-U.S. reinsurer was approved by the FLOIR to take advantage of the new collateral regime. As of March 23, 2011, the FLOIR has authorized eleven reinsurers (ten in Bermuda and one in Germany) to operate with reduced collateral posting requirements: Hannover Ruckversicherung AG (Hannover Re – Germany), Hannover Re (Bermuda), XL Re Ltd., Ace Tempest Reinsurance, Hiscox Insurance Company, Partner Reinsurance Company, Renaissance Reinsurance, Tokio Millennium Re Ltd. (Tokio), Allied World Assurance Company LTD (Allied), Montpelier Reinsurance Ltd (Montpelier) and Alterrra Bermuda Limited. The States of New York and New Jersey have established similar reduced collateral provisions. Please see "Changes to NY Credit for Reinsurance Regulations Now Effective" in our January 2011 Global Corporate Insurance & Regulatory

Bulletin and "New Jersey Enacts Law Allowing for Reduced Collateral Requirements for Credit for Reinsurance" in this Corporate Insurance & Regulatory Bulletin for additional information with respect to those provisions.

David Alberts and *Lawrence Hamilton*

US – States Address Nonadmitted Insurance Premium Taxes in Light of Dodd-Frank Act

Subtitle B of Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (**"Dodd-Frank Act"**), known as the Nonadmitted and Reinsurance Reform Act of 2010 (**"NRRA"**), addresses two important aspects of the US state-based regulatory system: nonadmitted insurance and reinsurance. Nonadmitted insurance is coverage that an insurer not licensed to write insurance in a particular state is permitted to provide pursuant to one or more statutory exemptions. One of the topics that Part I of the NRRA addresses is premium tax on nonadmitted insurance, since there is currently considerable complexity regarding the obligations of insureds to pay, and surplus lines brokers to collect, premium taxes on transactions where the purchaser of the insurance is in one state and the risk is located in another state, or in multiple states. The NRRA seeks to reduce that complexity by providing, effective July 21, 2011, that no state other than the "home state" of an insured may impose a premium tax on nonadmitted insurance. "Home state" is defined in Section 527(6) of the Dodd-Frank Act as the state in which an insured maintains its principal place of business (or, in the case of an individual, the individual's principal residence), unless 100% of the insured risk is located outside that state, in which case the "home state" is the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. Given that the "home state" is the only state that will be permitted to collect premium taxes on nonadmitted insurance transactions after July 21, 2011, Section 521(b)(1) of the NRRA allows states to enter into a compact or otherwise establish procedures to allocate among the states the premium taxes paid to an insured's home state.

The looming July 21, 2011 effective date of the NRRA has created considerable pressure on state legislatures to pass legislation that will harmonize state laws governing nonadmitted insurance with the NRRA. Two different approaches to the challenge are currently on offer. A task force of the National Association of Insurance Commissioners (**"NAIC"**) has drafted an interstate agreement called the Nonadmitted Insurance Multi-State Agreement (**"NIMA"**), which states could enter into through enabling legislation. NIMA would establish a central clearinghouse for reporting, collecting and distributing premium taxes on nonadmitted insurance. NIMA is not a broad regulatory compact, and it has been criticized by some for hewing too closely to the existing regulatory regime and not being sufficiently responsive to the broader agenda of the NRRA to streamline the nonadmitted insurance market in the US.

An alternative to NIMA is the Surplus Lines Insurance Multi-State Compliance Compact (**"SLIMPACT-Lite"**), which is a revised version of the original SLIMPACT developed in 2007 by the National Conference of Insurance Legislators (**"NCOIL"**). SLIMPACT-Lite has been endorsed by the National Association of Professional

Surplus Lines Offices (**"NAPSLO"**), the principal trade organization of brokers operating in the nonadmitted insurance market. SLIMPACT-Lite would create a central commission that would develop uniform premium tax allocation formulas, uniform payment methods and reporting requirements for policyholders and surplus lines brokers. Proponents of SLIMPACT-Lite contend that it addresses the uniformity measures mandated by NRRA to an extent that the NAIC's NIMA does not. Critics of SLIMPACT-Lite claim that it departs too much from the traditional state-based model of US insurance regulation. In order for the commission envisioned by SLIMPACT-Lite to be established, ten states must pass laws that agree to the compact. On March 18, 2011, Ohio became the first state to do so.

Lawrence Hamilton

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0306ins
March 2011