NATIONAL COUNCIL OF INSURANCE LEGISLATORS
JOINT STATE FEDERAL-RELATIONS AND INTERNATIONAL INSURANCE ISSUES COMMITTEE
NCOIL SUMMER MEETING - SALT LAKE CITY, UTAH
JULY 12, 2018
DRAFT MINUTES

The National Council of Insurance Legislators (NCOIL) Property & Casualty Insurance Committee met at the Little America Hotel in Salt Lake City, Utah on Thursday, July 12, 2018 at 10:15 a.m.

Senator Dan "Blade" Morrish of Louisiana, NCOIL Vice President and Chair of the State-Federal Relations Committee, presided.

Other members of the Committees present were:

Rep. Sam Kito (AK)
Sen. Jason Rapert (AR)
Rep. David Livingston (AZ)
Asm. Ken Cooley (CA)
Rep. Richard Smith (GA)
Rep. Matt Lehman (IN)
Sen. Jeff Raatz (IN)
Rep. Joseph Fischer (KY)
Rep. Steve Riggs (KY)
Rep. Lois Delmore (ND)
Sen. Bob Hackett (OH)
Sen. Roger Picard (RI)
Rep. Tom Oliverson, M.D. (TX)

Other legislators present were:

Rep. Edmond Jordan (LA)
Sen. Brian Feldman (MD)
Rep. Michael Webber (MI)
Rep. Joe Hoppe (MN)
Sen. Paul Utke (MN)
Asw. Maggie Carlton (NV)
Rep. Rodney Anderson (TX)
Rep. Joe Schmick (WA)

Also in attendance were:

Commissioner Tom Considine, NCOIL CEO
Paul Penna, Executive Director, NCOIL Support Services, LLC
Will Melofchik, Legislative Director, NCOIL Support Services, LLC

MINUTES

Upon a motion made and seconded, the Committee unanimously approved the minutes of its March 2, 2018 meeting in Atlanta, GA.

DISCUSSION ON GENERAL DATA PROTECTION REGULATION

Judy Selby, Principal - Judy Selby Consulting, LLC, stated that contrary to a lot of popular opinion and thought, the General Data Protection Regulation (GDPR) is not new – it is an outgrowth of a prior directive from the EU. Nevertheless, it is groundbreaking. The purpose of GDPR is to protect and empower individuals and its approach is different than what we see in the U.S. as a lot of approaches here are based on cybersecurity whereas GDPR is focused what companies are doing with the information they have about individuals. GDPR applies to people in the EU – not necessarily EU citizens – and

its definition of “personal data” is very broad and includes anything that can be traced back to someone. GDPR also applies to processing of personal data which means collecting, organizing, altering, storing, retrieving, using, erasing – essentially anything done with personal data.

Ms. Selby stated that there are two levels of personal data: regular and sensitive. Sensitive data deals with things like race, ethnic origin, sexual orientation, but surprisingly not financial information. One key factor of GDPR is that the regulation follows the data so in theory, if the data is in any country outside of the EU, GDPR applies to whoever is holding the data. GDPR applies to organizations that offer goods or services to, or monitor behavior of, data subjects in the EU and to organizations that target EU residents via the internet with services, goods, or for monitoring. What makes GDPR groundbreaking is the concept of accountability that it is imposing on whoever holds the data. It is a new concept that was not in the prior directive and it forces documentation of compliance.

To comply to GDPR, organizations need to embed six privacy principles within their operations: a.) lawfulness, fairness and transparency – you cannot hide anything from data subjects and the privacy statement has to be clear about what you are doing; b.) purpose limitation - data can only be used for a specific processing purpose that the subject has been made aware of and no other, without further consent; c.) data minimization - data collected on a subject should be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed. In other words, no more than the minimum amount of data should be kept for specific processing; d.) accuracy - reasonable steps must be taken to erase or rectify inaccurate and incomplete data; e.) storage limitation – must delete data when it’s no longer necessary for the purpose for which it was collected; f.) integrity and confidentiality – this is the only GDPR principal that deals with security and it is purposefully vague as it is understood to be risk-based for each organization and it acknowledges that technology changes frequently. GDPR requires processors to handle data in a manner that ensures appropriate security of the personal data including protection against unlawful processing or accidental loss, destruction or damage.

Ms. Selby stated that another important concept in GDPR is that of data subject rights. Data subjects have the following rights under GDPR: right to information; right to access; right to rectification; right to withdraw consent; right to object; right to object to automated processing – as an example, this comes into play when someone is applying for a mortgage and the person says they want to be looked at as a person not profiled based on where they live, etc.; right to be forgotten; right to data portability. Each of these “rights” has a 30-day time limit which is creating operational challenges for companies since they must verify a request when it comes in which sometimes requires the data subject to send their passport which creates separate issues.

Ms. Selby stated that GDPR is important to insurers because processing data is a fundamental part of the business of insurance. Insurers use huge amounts of data for risk analysis, claims analysis and payment, underwriting, detecting fraud, and marketing. Ms. Selby further stated that under GDPR, insurers must always have an appropriate legal basis for processing personal data. GDPR identifies 6 legal grounds for such processing, including consent, which Ms. Selby stated is one of the worst a company should based their processing decisions on since consent can be withdrawn. Ms. Selby stated again how the requirement for companies to respond to data subject requests

within 30 days creates difficult operational and technical challenges and insurers are no different.

Ms. Selby further stated that there are very important requirements in GDPR regarding how companies deal with service providers who are processing data on their behalf. GDPR allows for direct liability of the service providers which is a big change, and it requires certain contractual provisions to ensure that service providers are compliant with GDPR. Many companies also must hire a data protection officer (DPO). Another obligation falls under the concept of "privacy by design and default" which means whenever a company is trying something new such as a process or product, the company must consider data protection and the consideration must be documented.

Companies (including insurers) must also conduct a risk assessment of proposed processing activity that is likely to result in a high risk to data subject rights – this must be done before the processing takes place and if high risks are identified, the insurer must consult with the supervisory authority. That affects insurers quite a bit to the extent that they use profiling or artificial intelligence to make decisions. GDPR also states that to transfer personal data outside of the EU, insurers must make sure that the target company is based in a country that has adequate protection rules. Additionally, GDPR sets forth data breach notification requirements, including a 72 deadline to notify the supervisory authority. Ms. Selby also noted that there are three types of data breaches: a.) confidentiality – when confidential information is disclosed/hacked/stolen; b.) availability – occurs when the data is not available such as ransomware and denial-of-service attacks; and c.) integrity – when the data is corrupted or inaccurate.

Ms. Selby stated that much has been made of the fines and penalties set forth in GDPR. GDPR permits regulators to look at each violation in context pursuant to certain criteria and the highest level is the higher of €20 million or 4% of the worldwide annual revenue of the prior financial year. There is also an ability under GDPR for data subjects to receive compensation if they are affected by a violation.

Ms. Selby noted that the other way insurers are affected by GDPR is through insuring for GDPR liability through cyber insurance policies. Today's cyber insurance policies generally provide good coverage available for standard confidentiality breaches, but things get tricky when you delve into some specific GDPR obligations such as assessment, documentation, and DPO hiring requirements. Some policies in the U.S. tie coverage to only specific types of data breaches. Coverage for fines and penalties also gets tricky, especially when fines and penalties are punitive in nature - GDPR sates that fines and penalties must be dissuasive. Another key issue is coverage for directors and officers as more and more data legislation and regulation, including GDPR, puts more responsibility on them.

Rep. Joe Schmick (WA) stated that many of the terms described by Ms. Selby sound very subjective and thus, it represents a transfer of authority to regulators. Ms. Selby agreed and stated that many terms are vague, and many companies are simply taking a wait and see approach regarding how to comply with GDPR and what provisions of GDPR regulators will deem most important.

Sen. Dan "Blade" Morrish (LA), Chair of the State-Federal Relations Committee and NCOIL Vice President, asked what specifically triggers GDPR's obligations, and who is currently subject to GDPR. Ms. Selby noted that there is no size-limit regarding

company applicability and that currently, if you fall within the GDPR's definitions, in theory, you are subject to its obligations.

EXAMINING THE TRUMP ADMINISTRATION'S "PLAN" TO LOWER DRUG PRICES AND REDUCE OUT-OF-POCKET COSTS

Greg Gierer of America's Health insurance Plans (AHIP) stated that addressing rising prescription drug prices is an urgent national problem and bold steps are needed, both at federal and state levels, to ensure people and patients have access to life-saving and affordable medications. Last year alone, the U.S. spent $457 billion on prescription drugs, representing about 16.7% of total U.S. healthcare spending. Prescription drugs are rising faster than inflation and overall healthcare costs. Employers in the commercial market now spend more on prescription medications for their employees than they pay for in-patient hospitalizations. In fact, 22% of all healthcare costs in the commercial market are spent on prescription medications.

These price increases are making coverage less affordable for covered employees and putting strains on the U.S. healthcare system and Federal budget. The price increases are being driven by high launch prices for specialty medications and biologics as well as price increases for brand name drugs that have been on the market for many years. Because of this, action is critically needed and AHIP commends the Trump Administration's focus on rising prescription drug prices, and HHS Secretary Azar's leadership in releasing the HHS prescription drug blueprint.

The blueprint contains several important near and long-term policy options to both lower drug prices and reduce out of pocket costs. The blueprint is organized in four major areas: a.) improving competition; b.) enhancing better private sector negotiations; c.) lowering list prices; and d.) reducing out of pocket costs. AHIP is working closely with its members to develop comprehensive comments and recommendations to Secretary Azar which are due on July 16. Mr. Gierer stated that AHIP wholeheartedly and unequivocally agrees with the goal of lowering list prices and reducing prescription drug prices. Moreover, AHIP agrees with HHS' goal of getting the most clinically effective drugs into the hands of patients at the lowest possible cost.

Several of the HHS blueprint proposals show promise in lowering prescription drug prices that are consistent with a market-oriented approach to addressing the problem. First, AHIP supports promoting generic competition and supports efforts to spur greater generic availably and uptake of generic drugs. Such efforts include preventing some of the shenanigans that are going on with brand name manufacturers such as withholding samples that generic drug companies need to bring their products to market. Second, AHIP supports creating a robust and competitive marketplace for biosimilars. AHIP supports efforts to improve the availability, competitiveness and adoption of biosimilars as affordable alternatives to branded biologics. Third, AHIP supports enhanced benefit flexibility and expansiveness of private sector negotiation tools – the goal being to bring the effective tools and cost containment strategies that have worked in the private sector to public programs like Medicare Part D, which includes supporting the blueprint's consideration of allowing Medicare Part D plans to address price increases for a sole source generic drug, and providing plans with more flexibility in using formulary management tools for high cost drugs for which rebates are often limited or unavailable. Fourth, AHIP supports provisions in the blueprint that aim to increase prescription drug price transparency, including the proposal to include list prices in direct to consumer

advertising, and ongoing efforts to promote transparency in public programs like Medicare and Medicaid. Finally, AHIP supports efforts to update the star rating methodology as a way to ensure that part D plans are appropriately managing the utilization of high cost drugs.

Mr. Gierer stated that AHIP also has some concerns with the blueprint, particularly those dealing with prescription drug rebates. AHIP is concerned with some of the commentary around curtailing, limiting, or even eliminating the role of rebates. Rebates are a mainstay of prescription drug coverage in the private and public markets, and they are a part of the private sector tools to provide high quality and affordable prescription drug coverage. Rebates are also part of private sector negotiations. AHIP strongly supports lower list prices and net costs, and rebates are not related to that. Rebates are a way to drive down costs and they are primarily a function of leverage, not incentives. The challenge is that health plan formularies provide leverage that drive drug makers to provide discounted prices as manufactures compete for formulary placement. Rebates do not cause high list prices and price increases, rather, rebates are a market-based response to lower prices for consumers and the savings come through in the form of lower premiums and out of pocket costs.

Mr. Gierer stated that many of the blueprint's proposals are promising but the challenge now is to put them into action at both the federal and state level. Market oriented and pro-competitive policies such as those in the blueprint hold tremendous promise of getting at the core issue of the problem of rising prescription drug prices.

Sen. Bob Hackett (OH) stated that he is a supporter of rebates, but he is concerned as to how small businesses are hurt by them and asked Mr. Gierer how that can be resolved. Mr. Gierer stated that small businesses are indeed feeling the effects of drug price increases. To the extent that the market is able to act on some of the policies set forth in the blueprint, that would help lower drug prices overall. There is bi-partisan support for many of the blueprint's proposals.

Emily Donaldson of Pharmaceutical Research and Manufacturers of America (PhRMA) stated that the blueprint's request for information (RFI) comes at a time when we are in an era of medicine in which breakthrough science is transforming patient care and enabling us to effectively treat chronic disease which is the biggest cost driver in our healthcare system. There has been an evolution in the supply chain of the overall healthcare system that has left patients facing increased out of pocket costs due to rising list prices and high deductibles and coinsurance. This crossroads situation helps explain why there are over 150 questions in the RFI.

The RFI creates a unique opportunity to take a wide view and address all the factors that influence the cost of medicines. PhRMA is committed to help solve those problems and it supports efforts to make the fundamental policy changes needed to provide solutions. The RFI contains potential policy changes that would re-make key aspects of the market for prescription medicines and have a far-reaching impact on the cost and access of medicines, and significantly affect not just manufacturers but all stakeholders in the supply chain. PhRMA and its members support improving the status quo for Americans who rely on medicines and it believes that it needs to address some of the market distortions like changing supply chain incentives which would have positive consequences for both patients and payors.

However, Ms. Donaldson stated that there are some policies in the RFI that could harm access and increase out of pocket costs. Accordingly, caution is urged when considering such policy changes, particularly when the changes would affect very vulnerable populations such as those in the Medicaid and Medicare programs. With regard to rebates, Ms. Donaldson stated that the RFI correctly identifies a clear problem. While the current system of rebates, list prices, and net prices, has somewhat constrained overall drug spending, it can work better for everyone involved – most importantly, patients. Reforming the system will not be easy and must be done with great care and consideration. One issue that must be dealt with carefully is that of existing contractual relationships that exist among players in the supply chain that cannot be immediately upended. Special attention must also be paid to how policy changes could affect the ability for stakeholders to enter into voluntary, value-based arrangements.

Ms. Donaldson stated that health plans typically do use some portion of the negotiated rebates to reduce premiums for enrollees but in the current system, we have started to create a system of reverse insurance where sometimes the sicker patients who are high utilizers of medicines pay more at the pharmacy and more in overall out of pocket costs and since they are not getting the rebates there and the rebates are spread across the premiums, it is almost as if sicker patients are subsidizing healthier patients. Everyone seems eager to work together to solve that problem. The RFI also discusses anti-kickback statutes and there are many considerations the PhRMA will take into account and submit in its comments on the RFI.

Ms. Donaldson stated that PhRMA believes that any reforms to Medicare Part D should be developed with a focus on ensuring that Medicaid beneficiaries have access to and can afford the medicines they need no matter what health conditions they are facing. PhRMA believes that it is time for a "tune-up" of Medicare Part D to make sure that it continues to function appropriately and is sustainable. Some Part D reform proposals in the RFI are promising such as passing through a share of the negotiated rebates at the point of sale and establishing an annual maximum out of pocket spending limit. Those proposals could provide immediate financial relief to patients facing high pharmacy costs. However, some proposed changes to Part D, such as changes to the protected classes or eliminating the two drug per class requirement, could increase costs for beneficiaries and jeopardize the health of seniors and those with disabilities.

Approaches to change Medicare Part B are also referenced in the RFI and PhRMA believes that HHS should pursue approaches that improve value holistically across the treatment continuum and focus on empowering patients to make informed choices and treatment decisions rather than restricting their choices and treatment options. PhRMA also believes changes should be avoided that contain incentives that would undermine the existing Part B market base and transparent average sales price system. With regard to Medicaid, the RFI does contemplate eliminating the ACA's maximum rebate amount provision which is essentially a cap that keeps Medicaid rebates from exceeding the payment a manufacture receives for a drug – PhRMA will be providing specific comments on that proposal. PhRMA encourages CMS to preserve and improve access to medicines for vulnerable Medicaid patients whom are often those with the most complex and chronic conditions that require access without delay to a broad range of treatments as prescribed by their physicians. Those patients are also typically financially vulnerable so access to treatments needs to be a primary objective.

The 340B drug pricing program is also referenced in the RFI and PhRMA believes that 340B is an important program but the size of it has created some incentives that affect consumer prices for medicines as it shifts care to more expensive hospital settings and accelerates provider consolidation. A significant amount of data shows that the 340B program is driving up costs for everyone. PhRMA will be providing specific comments on improving the program.

Ms. Donaldson stated that co-pay assistance cards are referenced in the RFI and a recent study stated that such cards can mitigate patient abandonment rate (i.e. when a patient gives up their prescription at the pharmacy counter because it is too expensive) by up to 50%. The study also found that in 2017, only 0.4% of commercial claims were filled with a cost-sharing assistance card for brand medicine where there is a generic available. PhRMA will be submitting specific comments on the RFI's questions regarding the impact of ending the current policy of excluding manufacture sponsored drug discount programs from the determination of average manufacturer price (AMP) and best price.

Ms. Donaldson stated that value-based contracting is featured prominently in the RFI and it is good news that the FDA has now addressed a key barrier to value-based arrangements by issuing guidance to allow certain communications between manufacturers and payers. Such communications are essential in making sure that value-based contracting arrangements can move forward. PhRMA urges CMS to continue with that momentum because such arrangements can offer important clinical gains and overall cost-savings to payers, providers, and the system as a whole, including Medicare and Medicaid and their beneficiaries. PhRMA looks forward to working with the federal government and states to identify and address other barriers to value-based contracting. Something that states might be interested in are state anti-kickback statutes and making sure that such statutes are properly applied and are not imposing outdated barriers to value-based contracting.

Caitlin Westerson, of the Colorado Consumer Health Initiative (CCHI) stated that CCHI is a non-profit, non-partisan advocacy organization and its membership is based on organizations that do grassroots organizing. CCHI represents consumers in the health policy world through its members. Spending on prescription drugs is having a negative impact on the overall healthcare system, especially when it impacts premiums and consumer's out of pocket costs. Ms. Westerson stated that the crux of the issue is that patients are caught in the middle and drugs don't work if people can't afford them. One in four Americans report not being able to afford their prescription drugs and when they can't afford the drugs they don't adhere to their regimen and that ends up costing the healthcare system a lot of money downstream. One study estimates that such a cycle costs between $100 billion and $290 billion annually.

Ms. Westerson stated that the blueprint is a step in the right direction, contains promising ideas, and is a great opportunity for consumer advocates, policymakers, and other players in the industry to engage in a robust conversation. However, there is room for improvement and there are a few things in the blueprint that consumers find concerning. Additionally, several of the blueprint's proposals are modest and are not fleshed out enough yet to determine if they will have a real impact. An example is the blueprint's focus on Medicare and lack of focus on the commercial market as only 1/3 of Americans are insured through Medicare.

Ms. Westerson stated that more flexibility in the Medicare formulary and value-based purchasing sound like great ideas, but the devil is in the details and it depends on how those proposals are structured and what guardrails are implemented to ensure that consumers are protected from predatory behavior and loss of coverage. The blueprint also misses some opportunities as there is a lot of political salience on these issues right now and the polling indicates that voters, both Republicans and Democrats, support bold measures to address prescription drug costs – measures that are bolder than what are contained in the blueprint. There typically is not as much common ground as currently existing on both sides of the aisle on healthcare reform so it needs to be capitalized on. There are also ideas floating around that did not get into the blueprint such as price gouging laws, importation programs, robust transparency measures, capping co-pays, and robust patent reform.

Ms. Westerson stated that consumers see potential in the blueprint on issues such as: Medicare beneficiaries' out of pocket costs; passing savings through to consumers through additional PBM regulation; limiting rebates and discounts that contribute to an opaque supply chain and high list prices; requiring list prices to be disclosed in direct-to-consumer advertising; and controlling Medicare part B price increases. Ms. Westerson stated that the blueprint missed the mark on directly impacting prices as there is a lot of rhetoric around negotiating prices in the Medicare program but the proposals in the blueprint are outlined as stating that each individual Medicare plan would be able to negotiate individually with the manufactures and that is not as powerful as compared to aggregating and leveraging the national purchasing power across the entire program.

The blueprint could also do more to discourage patent abuses. There is conversation surrounding Risk Evaluation and Mitigation Strategies (REMS) abuse but there is seemingly no mention of "pay-for-delay" where brand manufacturers pay generic manufactures for delaying the introduction of their drugs following patent expiration. Nor is there mention of "evergreening" where drug companies extend patents and delay the introduction of generics by making very small, not necessarily meaningful, changes to existing drugs by changing things like the coding or dosage of a drug. Ms. Westeson stated that the blueprint could also approve upon requiring more meaningful transparency. Consumers are very interested in the justification for where list prices are set and also why they continue to rise especially after they have been on the market for years. Consumers want to see anticipated price increases, research and marketing costs, and what the discounts and rebates are.

Ms. Westerson stated that consumers are also concerned about the Medicare and Medicaid programs not covering certain drugs. Regarding changing formularies for those programs, the leverage comes at the cost of the most vulnerable populations: children, seniors, low income individuals, and individuals with disabilities. That has the potential for a negative impact on the system at large. The blueprint also does not mention price gouging or bad actors in the pharmaceutical supply chain. Many consumers rely on their drugs to live which gives pharmaceutical companies a captive market and that will continue to happen at the expense of consumers unless the practices of bad actors are addressed. Ms. Westerson also stated that she does not see much value in increasing drug prices outside the U.S. and focus should be on prices within the U.S. and how they are affecting consumers. Ms. Westerson closed by stating that the Trump Administration is the first Administration in years that has shown an interest in tackling these difficult issues and consumers appreciate all efforts in giving everyone an opportunity to participate in the conversations.

Rep. Lois Delmore (ND) stated that we seem to be bombarded by advertising from drug companies and asked if there is a way to find out what percentage of their budgets is spent on advertising as compared to research, and whether that is a contributing cost increase for consumers. Ms. Westerson stated that is a question being asked by consumer advocates across the country and typically, when you see drug pricing transparency legislation, it almost always includes provisions regarding marketing and advertising costs. There is information included in a pharmaceutical companies' Form 10-k filing with the SEC, but Ms. Westerson stated she is not certain what level of detail it provides.

Ms. Donaldson stated that the level of detail varies by company and that information is public. Ms. Donaldson also stated that, while she cannot speak for individual companies, PhRMA does require its members to spend a certain percentage on research instead of marketing. Mr. Gierer stated that AHIP is concerned about the proliferation of direct-to-consumer advertisements. The blueprint contains a proposal to require manufacturers to include their list prices in such advertisements which is important as that is something consumers should know in addition to the safety and effectiveness of a drug. Mr. Gierer stated that the entire drug pricing system is opaque and that it is important to make sure that all stakeholders, including patients, understand what is making drugs unaffordable. Several states have either passed laws or are considering passing laws that "get under the hood" of the drug pricing system. Competition and the free market work when everyone has access to the same information and, accordingly, AHIP supports drug pricing transparency legislation such as the landmark legislation passed in California last year.

DISCUSSION ON DODD-FRANK REFORM LAW – THE ECONOMIC GROWTH, REGULATORY RELIEF, AND CONSUMER PROTECTION ACT

Howard Headlee, President of the Utah Bankers Association, stated that many are probably unaware that Utah is one of the largest banking states in the country. Utah is the most diverse banking state in the country, but it is important when discussing banks to make sure that everyone knows what a bank is, because what led to Dodd-Frank was a mis-use of the word bank. Mr. Headlee stated that when he uses the word bank, it refers to an FDIC insured institution so that they can take deposits, insure them, and turn around and make loans in their communities. Those banks did not create the financial crisis. The Dodd-Frank reform legislation that was recently passed by Congress had bi-partisan support and will benefit all communities. That is something to celebrate at this time in America.

Mr. Headlee stated that it is not a coincidence that Utah is one of the largest banking states in the country and also has one of the country's healthiest economies – the two are inextricably linked. When banks struggle, communities struggle, and vice versa. Mr. Headlee stated that embedded in tax reform, for those states that follow the federal tax system, is a tax increase on banks as the tax reform legislation eliminated the deductibility of FDIC insurance premiums for banks over $10 billion in size. In Utah, the average size bank is about $10 billion. However, just this morning, the Utah interim Revenue and Taxation Committee voted unanimously to eliminate the state tax increase that was coming automatically because of tax reform. That is representative of the mentality that Utah has regarding banking and its importance to the economy.

Mr. Headlee stated that, broadly speaking, the Dodd-Frank reform law focused on two main aspects of reform. One aspect is tailoring. Dodd-Frank implemented a one-size-fits-all regulatory approach because the problem was mis-diagnosed. A bank was going out of business every day. The banking industry is not trying to reduce regulations, it is trying to make them more efficient which is good for everybody. Dodd-Frank created arbitrary thresholds that had nothing to do with risk.

The other aspect is harmonization which requires getting everyone on the same page through increased transparency and coordination between state, federal, and international authorities. International banking is very different than U.S. banking and accordingly, international standards shouldn't be imposed on states. Mr. Headlee stated that he understands the state insurance industry has similar views. Another piece of harmonization in Dodd-Frank is increased uniformity of standards such as liquidity standards.

Rep. Steve Riggs (KY), NCOIL Immediate Past President, stated that the country has lost banks in the past due to mis-guided regulation, but also due to them becoming too leveraged based on activities such as credit default swaps and derivatives. Rep. Riggs asked Mr. Headlee is he thinks banks have learned their lesson regarding those activities, or, are we headed back towards the abuse of those practices due to the Dodd-Frank reform legislation. Mr. Headlee stated that when discussing topics like credit default swaps it is important to make sure the discussion is focused on the proper definition of a bank. Mr. Headlee also stated that credit default swaps are a critical risk management tool and that he does not see anything inappropriate going on with using them to mitigate risk such as interest rate risk. Mr. Headlee stated that things like The Volcker Rule never got implemented because it painted with such a broad brush which is reflective of why, when discussing Dodd-Frank, the proper definition of bank must be used.

Mr. Headlee stated that the good news with regulatory reform relates to mortgages. Mr. Headlee stated that he has no doubt that if everyone in American had gotten their mortgage from a local bank or local credit union, the financial crisis never would have occurred. Dodd-Frank caused such local banks and credit unions to shut down because of the nightmarish regulatory atmosphere. Such a large amount of mortgage business was then transferred to on-line business. The Dodd-Frank reform legislation will hopefully bring those mortgages back to local banks and credit unions.

UPDATE ON FEDERAL AND INTERNATIONAL INSURANCE DEVELOPMENTS

Dave Snyder of the Property Casualty Insurance Association of America (PCI) stated that tariffs are starting to be used by many countries to resolve trade disputes and they could end up causing higher insurance costs. Tariffs have already been imposed on imported lumber from Canada and the homebuilders estimate that will increase the cost of building a new home by $9,000. Perhaps of greatest significance is a proposal to impose tariffs on imported automobiles and automobile parts. A joint trades letter was submitted to the Department of Commerce in which it was estimated that such tariffs would add $3.4 billion in auto insurance premiums. Mr. Snyder urged NCOIL to monitor these issues as states may begin to see rising insurance costs.

Mr. Snyder stated that, on a positive note, there was an insurance-related provision include in the Dodd-Frank reform legislation that pushes towards greater transparency

and greater state-federal coordination. Through its support of the state-based system of insurance regulation, NCOIL played a very large role in seeing that language included in the legislation. Additionally, yesterday, the House passed unanimously by voice vote The International Insurance Standards Act of 2018 (H.R. 4537) which calls for consultation with states and Congress when international insurance negotiations take place to ensure that international insurance standards and agreements recognize the state-based system of insurance regulation. Mr. Snyder urged NCOIL to continue supporting that bill to ensure that some version of it becomes law which would establish a positive state-federal relationship in the future, protect the state-based system of insurance regulation, and enable the federal government to be the face in international negotiations to carry forth state polices in the international realm. Doing so would ensure that things like the GDPR do not become a global standard.

ADJOURNMENT

There being no further business, the Committee adjourned at 5:00 p.m.