

Washington, DC | July, 2015

EXECUTIVE SUMMARY.

In its second meeting of 2015, The Council of Insurance Agents & Brokers' Legal Counsel Working Group was attended by nearly 35 of the insurance brokerage industry's top legal counsels. The meeting was held at The Council's headquarters in Washington, D.C. and chaired by Bob Lloyd, Vice President and General Counsel at Brown & Brown, Inc. The working group was staffed by Senior Vice President of Government Affairs Joel Wood, Vice President of Government Affairs Joel Kopperud, PAC Director Brittany Lindberg, and legal counsels Scott Sinder and John Fielding of Steptoe & Johnson.

PARTICIPATING FIRMS

Thirty-three (33) participants from the following 25 member firms were in attendance:

AEGIS Insurance Services, Inc.	Conner Strong & Buckelew	M3 Insurance Solutions, Inc.
AON Risk Services, Inc.	Firstbrook Cassie & Anderson Ltd.	Marsh & McLennan Companies
Arthur J. Gallagher & Co.	Glatfelter Insurance Group	Murray Securus
Ascension Insurance, Inc.	The Graham Company	NFP
Assurance Agency, Ltd.	The Hays Group, Inc.	USI Insurance Services
AssuredPartners, Inc.	HUB International Ltd.	Wells Fargo Insurance Services
BancorpSouth Insurance Services, Inc.	The IMA Financial Group, Inc.	Willis North America, Inc.
BB&T Insurance Services	JLT Towers Re	
Brown & Brown, Inc.	Lockton companies	

MAIN TAKEAWAYS

- NARAB** | The Obama administration began its search for candidates for the corporation's Board of Directors following the passage of NARAB II this past January. We expect that the Board will be selected by the end of the year, and hope that a Council member is among those chosen. NARAB will likely begin issuing licenses by 2017.
- TRIA** | President Obama signed the TRIA reauthorization this past January. The six-year program remains virtually unchanged, and we do not expect that attempts to scale back the program will succeed.
- FATCA** | The Council launched its FATCA Portal (fatca.ciab.com) last year to assist brokers and insurers with FATCA reporting requirements. Efforts are underway to attract more companies to use the portal. Some of the reporting requirements have been eased for brokers by the IRS, although compliance remains cumbersome.
- CYBERSECURITY** | The Council launched its FATCA Portal (fatca.ciab.com) last year to assist brokers and insurers with FATCA reporting requirements. Efforts are underway to attract more companies to use the portal. Some of the reporting requirements have been eased for brokers by the IRS, although compliance remains cumbersome.

MAIN TOPICS

TRIA Reauthorization

The Terrorism Risk Insurance Act expired on December 31, 2014, and President Obama signed its reauthorization on January 12, 2015. The six-year program remains virtually unchanged, although the deductible has increased. We do not expect that attempts to scale back the program will succeed.

NARAB II – Enactment & Implementation

On January 12, 2015, NARAB II was enacted as part of the Terrorism Risk Insurance Act (TRIA) reauthorization legislation. The program will significantly simplify insurance producer licensing in the United States, and will be governed by a 13-member Board of Directors. The Obama administration is currently searching for candidates, and appears to be looking for diversity in all forms (geographic, ethnic, gender, etc.). We expect that Board members will be selected by the end of the year.

- Although they continue to report that the program will start up next year, the board will likely be issuing licenses by 2017 at the earliest. Licensure requirements should be relatively simple for both small and large firms.
- In anticipation of the NARAB Board establishing NARAB's licensing standards, The Council will check in with working group members to see what is happening on the ground in their states in about six months.

FATCA

Compliance continues to present challenges, and very few carriers have the necessary forms on their websites. Producers report that it is very difficult to have the W8 form as part of their initial discussions at the transaction level.

- The Council's FATCA Portal (fatca.ciab.com) remains available to assist brokers and insurers with the FATCA reporting requirements. The site provides a single place for carriers and insurers to obtain W-8BEN-E, W-8IMY and W-9 forms, all in one place.

Cadillac Tax

The Council continues to work with Rep. Paul Ryan's staff to fight the so-called "Cadillac Tax." We are currently working to get hard numbers demonstrating that companies are not raising salaries, and that incentives are not the deciding factor when evaluating the affordability of a plan. Rep. Ryan's staff seems optimistic that we may be able to negotiate an 80% threshold.

King V. Burwell

The Working Group meeting took place before the Supreme Court ruled for the Obama Administration in *King v. Burwell*, upholding the subsidies and mandates. Given the timing of the meeting, there was an animated discussion by attendees regarding the possible outcome and impact of the ruling.

National Insurance Producer Registry

Karen Stakem, Executive Director of the National Insurance Producer Registry (NIPR), presented on recent technological developments in the insurance industry. Stakem specifically discussed NIPR's licensing technology, continuing concerns over cybersecurity, and her organization's efforts to prepare for the implementation of NARAB II.

Cybersecurity

Cybersecurity continues to dominate discussions about the future of insurance. Following high-profile data breaches, people are looking to the insurance industry to provide solutions for both property exposures and data breach threats. There also appears to be growing concern about the security of biometric data – stolen fingerprints could result in irreparable identity theft.

- Some participants spoke about measures they have taken to ensure security at their own companies, including: hiring hackers, staging phishing exercises, and orchestrating physical break-ins. All agreed that such exercises have proven helpful.
- It is always important to report security breaches to the correct law enforcement agency. The FBI deals specifically with cybersecurity issues and can be of great help during an investigation.

ADDITIONAL DISCLOSURES

Sandy Claims Re-Opened

The National Flood Insurance Program (NFIP) is reviewing claims filed by policyholders affected by Hurricane Sandy. On May 18, nearly 142,000 policyholders received letters informing them that their claims could be reviewed. It is important to make sure that policyholders are aware that such a review could result in either a monetary gain or a loss.

Illinois Market Conduct Examination

Market conduct examinations continue throughout the state of Illinois, although they seem to be on the back-burner at this time. Only two audits have been fully completed, and neither resulted in punishment or fines.

Rebating

It appears that exceptions to rebating laws are growing, as evidenced by the continued success of companies such as Zenefits. There have also been a number of changes in the New York Department of Financial Services, as Rob Easton has retired from his position as Executive Deputy Superintendent of the Insurance division. Now may be a good time to revisit rebating laws.

Sub-Groups

The Working Group has several sub-groups focused on specific issues of interest to the members. Sub-group membership is open to changes, as well as the creation of new groups as interests warrant. The current subgroups and members are:

- FATCA: Donna Hargrove, Mary Ellen Lenahan, Zac Skinner
- Health Care Reform: Amy Donovan, Andy Impostato, Jeff Klein
- Cybersecurity: Terry Burston, Mary Ellen Lenahan
- Surplus Lines: Nancy McCabe
- Illinois Market Conduct Exams: Bob Sajdak, Bob Greco, Nancy McCabe, Dan Walseth
- Rebating: Ivy Fischer, Jeff Klein, Mary Ellen Lenahan, SueAnn Schultz
- Broker Duty of Care: Ken Fall

See you in the fall!

The next Legal Counsel Working Group will be held in November. Please send suggestions to Joel Kopperud at joel.kopperud@ciab.com or (202) 662-4311 to discuss at our next meeting.

SHARE IT!: We encourage you to use this document as a reference tool and to share with your executive management and others in your firm who could benefit from this information.

ABOUT THE WORKING GROUPS.

Part of The Council's membership offerings, the Legal Counsel Working Group is one of seven working groups (CFO, CIO/Technology, Claims & Risk Management, HR in Insurance, International and Marketing & Communications) open to employees of Council member firms. These working groups provide opportunities for peer-to-peer dialogue on relevant topics, and to connect with others who face similar issues and challenges. Participants walk away with insights and ideas on best practices, as well as a fresh network of professionals. For more information, or to join, contact The Council's **Julia Smith** at julia.smith@ciab.com.