Testimony of

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On Behalf of the National Association of Insurance Commissioners

Before the

Committee on Banking, Housing, and Urban Affairs

United States Senate

Regarding:

Current Issues in Insurance

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Introductory Remarks

Chairman Brown, Ranking Member Toomey, and members of the Committee, thank you for the invitation to testify today. My name is

State regulators believe there should be equal access to insurance markets and products, and we must ensure that insurance companies are not unfairly discriminating at any stage of the insurance process, from underwriting to rate setting, to claims handling. The volume of data being created, combined with ever evolving computational techniques, have resulted in unprecedented data mining capabilities that fuel the development of predictive models used to support decision making by insurers. These AI/ML driven decisional systems can and do incorporate and amplify unfair bias which can result in unfair discrimination when applied to consumers. The Algorithmic Bias Project of the H Committee's Collaboration Forum is addressing unfair algorithmic bias, how it emerges, and the right regulatory approach to mitigation and detection. The Project recently held a multi-day collaboration session for state insurance regulators featuring academics and experts on this topic. These issues are complex and far reaching, and our work is necessarily measured and deliberative to avoid unintended consequences in the market. We are committed to continuing these important efforts and welcome your engagement.

Climate Risk, Natural Catastrophes, and Resiliency

Another top priority for the NAIC is climate risk and resiliency. State insurance regulators, through the NAIC, have had a climate

State insurance regulators also continuously monitor the capital adequacy of insurers to ensure their ability to pay claims following catastrophic events. A fundamental tool for monitoring capital adequacy is the NAIC's Risk Based Capital (RBC) formula, which determines the minimum amount of capital an insurer should hold based on its risk profile. Regulators continually update RBC charges to address the evolving risk landscape. For example, in 2017, the NAIC expanded the risks quantified in the RBC formula to include a specific charge for hurricane and earthquake catastrophe risk in order to recognize increased exposure to catastrophic events. Most recently, the solvency workstream of the Task Force recommended that wildfires be added to the RBC framework for catastrophe risk exposures. In addition, based on the recommendations of the Task Force, the NAIC's Financial Condition Committee is considering specific enhancements to the solvency oversight tools used by state insurance regulators that will expand the evaluation of an insurer's exposure and response to climate-related financial risk, particularly in areas such as transition risk. The Task Force is also evaluating viable approaches to scenario analysis and stress testing for insurers as the data necessary to conduct such exercises becomes available.

The role that state regulators play with respect to climate risk involves more than just ensuring financially strong insurance companies and a viable market; it also includes ensuring strong and resilient homes and communities. Insurers are risk financers and, as such, are risk managers and risk mitigators. Leveraging that, our members are leaders in the effort to

have adopted the 2019 revisions to the Credit for Reinsurance Model Law. With respect to the Credit for Reinsurance Model Regulation, 52 jurisdictions have adopted so far, and another four are pending (the District of Columbia, Florida, New Jersey, and the U.S. Virgin Islands). These numbers include America Samoa, Guam, and the Northern Mariana Islands who issued orders bringing them into compliance with the Covered Agreements.

Private Equity

Turning to an issue that has generated significant media attention and Congressional interest, state insurance regulators have been actively monitoring the recent growth of alternative asset management companies, private equity (PE) firms among them, in the life insurance sector.

It is important to emphasize that any insurer, regardless of its ownership structure, is subject to a comprehensive regulatory regime that is experienced at both micro-prudential and macro-prudential supervision. These existing regulatory requirements, designed explicitly to protect policyholders, have been refined and strengthened by lessons learned from past recessions, natural disasters, terrorist attacks, the 2008 financial crisis, and most recently the COVID-19 pandemic, all of which put our system to the test. Our system focuses on risks at the individual insurer and group level, with extensive disclosure, analysis, capital requirements, and regulatory authority to protect solvency, while promoting product availability and affordability. The form of ownership is ETQq0t4 by lessons ET(lessons)29(lea)6(rne)]TJETQq0.00000912 0 612 792 reW*ronB-49(ris147ntl)-3(y)-4

insurance regulators continue to review and refine existing guidance to ensure their ability to assess and address the risks to the insurers. It should be noted, however, that some of these affiliated arrangements are not limited to just private equity owned companies. Increasingly, we have seen traditional life insurers also adopt some of these structures.

The NAIC's Macroprudential Working Group has developed a list of 13 regulatory considerations related to their ability to adequately assess risks posed to insurers because of recent increases in the complexity of investments and other developments. This list is being used to identify where existing disclosures, policies and/or procedures should be modified, or new ones created, to address any gaps based on the increase in the number of PE owners of insurers as well as the

amongst those involved in supervising IAIGs. Since its adoption, work has been underway to review ComFrame and identify ways to incorporate it into our own regime in an appropriate manner, including revisions to our financial analysis and examiners handbooks.

One part of ComFrame yet to be finalized is the Insurance Capital Standard (ICS). Additionally, the U.S., with input from other interested jurisdictions, is developing the Aggregation Method (AM) as a comparable alternative to the ICS. Both the ICS and AM are intended to be applied to IAIGs.

The ICS is in the third year of a five-year monitoring period, the purpose of which is to monitor the performance of the ICS over time and inform any potential improvements before finalizing and adopting. Another key decision to be made at the end of the monitoring period is whether the AM provides comparable outcomes to the ICS. If deemed comparable, the AM will be considered "outcome-equivalent" to the ICS. This summer, the IAIS conducted a public consultation on detailed draft criteria that will be used to assess comparability. Such consultations provide transparency, which is something we push for at the IAIS, as well as an opportunity to hear directly stakeholders' views and receive their feedback, which should help shape revised criteria. IAIS members agreed that the comparability assessment should neither give the AM a free pass nor preclude comparability at the outset. Keeping this in mind will be crucial as the IAIS works to finalize the criteria later this year and to ensure a fair path forward for the AM by focusing on the outcomes produced by these two approaches rather than their conceptual differences.

The NAIC, as well as the U.S. Department of the Treasury and the Federal Reserve, have been clear with the IAIS, and international colleagues, that the ICS does not work for the United States market or our supervisory regime, and therefore states will be implementing an AM approach. The AM leverages proven legal entity reported available and required capital to produce a measure of group capital adequacy. For the state system, the AM is implemented as the Group Capital Calculation referenced previously, and for the Federal Reserve, it is the Building Block Approach. These complementary approaches provide a group lens on solvency while maintaining legal entity building blocks that allow supervisors to analyze, identify, and address capital deficiencies where they reside.

We, and hopefully the rest of Team USA, will continue to advocate for recognition of the U.S. approach to group capital. Absent recognition through either a comparability process or some other means, the IAIS will have failed in its goal of a global approach to evaluating group capital.

While we hope for the best outcome on comparability, as you have heard, this is just one of many projects, topics, and priorities at the IAIS, and we will continue to remain at the table and work

First, we urge Congress to pass a long-term reauthorization of the National Flood Insurance Program (NFIP) prior to its September 30, 2022, expiration to provide certainty for insurance consumers. The NAIC's guiding principles[9] for NFIP Reauthorization for Congress emphasize the importance of long-term reauthorization, encourage greater private market growth to help provide consumers with additional choices for flood insurance products, and increase investment in mitigation planning. Insurance regulators support the inclusion of mitigation discounts – such as premium discounts or insurance rate reductions to persons who build, rebuild, or retrofit their properties to better resist flood events – and allowing individuals to set aside funds in a tax-preferred savings account for disaster mitigation and recovery expenses. We also support the Disaster Mitigation and Tax Parity Act (S. 2432) that would ensure that state-based disaster mitigation grants receive the same federal tax exemptions as federal mitigation grants. This would help provide greater incentives for homeowners to protect their homes from natural disasters. These actions, along with building and maintaining structures that incorporate mitigation strategies, have the potential to reduce future program losses and improve the financial condition of the NFIP.

Second, the NAIC and state regulators would like to thank Senator Tim Scott for introducing the Primary Regulators of Insurance Vote Act of 2022 (S. 4110)