

Long-Term Care – Rate: *Cost Sharing*

Cost Sharing Methodology Proposed:

- 5% haircut for the first 100%
 - 20% haircut for the portion of cumulative rate increase between 100% and 400%
 - 80% haircut for the portion of the cumulative rate increase in excess of 400%
- *LTC Inforce Determining Potential Impacts*

Climate: *Industry Scenario Analysis Adopted*

Insurers Permitted to Utilize Their Own Models:

- Hurricane - Category 3 and Higher
 - Wildfire w/10% and 50% Increases
 - 3-Year Sunset
- *Less expensive than NAIC's approach*

Tort Inflation: *Trial Bar Presentations*

Presentations to Debunk Social Inflation:

- Utilized Federal Data
 - Adverse Development is in State Court
 - Nuclear Verdicts
 - Argued that they are driven by the severity of injuries
- *APCIA Rebutted → Further Strategies Underway*

Unfair Bias: *Industry & Consumer Presentations*

Presentations from Industry and Consumer Groups:

- APCIA – Appropriately Assessment of Risks is not Necessarily Constitute Unfair Discrimination
 - Consumer Group – Insurance Should be Subject to Same Standards as Banks
- *Further Activity Across Multiple Committees*

Privacy: *Third-Party is Near-Term Focus*

Draft Exposed for Comment Focused on:

- Third-Party Provider Agreements
 - Access, Correction, and Deletion
 - Sale of Information
 - Sensitive Personal Information
- *Near term focus will be on Third-Parties*

Surplus Lines: *Public Adjuster Prohibition*

Public Adjusters Asked for Regulator Support:

- Prohibit Contractual Clauses Preventing Use of Public Adjusters
 - Enacted: TX
 - Proposals: FL, LA, MA, NY, OH
- *Public Adjusters Will Continue to Advocate*

Investments: *Shift in Focus – Challenge of Ratings*

- NAIC Valuation Focus Shifting from Credit Risk to Investment Risk
 - Proposal discussed to allow the NAIC to Challenge Credit Ratings
- *Challenge Process to Credit Ratings to Receive Further Consideration*

Accounting: *Crypto = Non-Admitted Asset*

Clarification to Statutory Accounting Guidance:

- Crypto Considered a Non-Admitted Asset
 - Transfer of Assets When Modifying Intercompany Pooling Agreements
- *Additional Proposals Noticed for Comment*

Recovery & Resolution: *Holistic Framework*

US Guarantee Funds Made a Presentation:

- State-Based System is a World Leader in Protecting Policyholders and Contains the Protections Outlined by IAIS
- *Avoiding Disruption of US System is Key*

Comparability: *ICS - AM*

US Regulators Made Strong Statement that:

- Aggregation Method (AM) is Comparable to the International Standard (ICS)
 - IAIS Will Make a Determination by Year End
- *Team USA Will Continue to Press for Comparability*

NAIC Summer Meeting - Executive Summary

The NAIC Summer National Meeting was comprised of a number of substantive presentations as well as exposure of proposals that will be considered at the fall national meeting.

Long-Term Care: Rate & Reserving

A cost sharing methodology was proposed for the multi-state rate review process, which includes the following bands:

- 5% haircut for the first 100%
 - 20% haircut for the portion of cumulative rate increase between 100% and 400%
 - 80% haircut for the portion of the cumulative rate increase in excess of 400%
- 20% Haircut Between 100% and 400% Cumulative is More Favorable than Current Methodology

The NAIC approved amendments to the Valuation Manual and Actuarial Guidelines relative to Asset Adequacy Testing to Long-Term Care Reserves (AG 51), which will expressly apply LTC asset adequacy testing requirements to P&C companies. Given that CNA already files AG 51, this is not expected to have any significant impact.

Tort Inflation: Consumer Representative Attempted to Debunk Social Inflation – APCIA - Brief Rebuttal

A consumer representative attempted to establish that there is no litigation crisis, relying on federal data and otherwise claiming the large awards may be due to severity of injuries. APCIA gave a brief rebuttal, highlighting the fact that the US is the most litigious in the world and that plaintiff's attorneys reap the highest fees.

Unfair Bias: Industry – Risk-Based Pricing ≠ Discrimination / Consumer Group – Insurers - Treated Like Banks

APIA gave a presentation defending risk-based pricing, stating that appropriately discriminating between risks is not unfair discrimination. A consumer representative argued that insurers should be subject to the same standards as banks in terms of evaluation of underwriting practices. NAIC stated that further activity related to the unfair bias issue will be addressed by various committees between now and the end of the year.

Climate: Scenario Analysis → APCIA/Joint Trades Alternative Adopted w/3-Year Sunset

NAIC adopted the industry's proposal, which will allow insurers to utilize existing models to calculate its exposure to hurricanes that are category 3 or higher as well as wildfire events with 10% and 50% increases. This compromise offers insurers a less expensive option when compared with the NAIC's original proposal. The NAIC is developing a climate disclosure dashboard, which will be focused on physical risks, transition risks and coverage trends.

Surplus Lines: Service of Process Form – Exempt Purchaser Thresholds – Public Adjuster Prohibitions

The Task Force proposed a new Service of Process Form in an attempt to address consent to jurisdictions issues relative to registration in a state other than where the loss occurred. The Exempt Commercial Purchaser thresholds were amended effective January 1, 2025. The Task Force also heard an update from the public adjusters relative to their concerns regarding contractual provisions that prohibit the retention of public adjusters.

Privacy: New Draft Model Exposed → *Third-Party Service Providers are Near Term Focus*

A draft privacy model was exposed for a 30-day comment period. Key areas that will be examined include: third-party service provider agreements; access, correction, and deletion; sale of information, and sensitive personal information. Focus for the first round of comments is limited to issues relating to third-party service providers. While the Group aspires to complete their work by the end of the year, it is relatively likely to extend into 2025.

Investments: Shift in Evaluation Focus (Adopted) – *Challenge of Investment Ratings (Pending)*

NAIC has shifted its focus relative to securities valuation from credit risk to investment risk. There is also a proposal under consideration for the NAIC to challenge credit ratings. The Financial Committee also approved an RFP to specify a process whereby credit ratings would be challenged.

Accounting: Crypto is Deemed a Non-Admitted Asset – *Guidance Regarding Asset Transfers Adopted*

A number of clarifications of statutory accounting guidance were adopted, including that crypto will be considered a non-admitted asset. Guidance regarding transfers of assets when modifying intercompany pooling agreements was also adopted in a manner that addressed industry concerns. A number of additional proposals were also exposed for comment.

Comparability: US Regulators Made Strong Statement to IAIS Regarding Comparability

The NAIC made strong statements to IAIS leadership regarding comparability between the US standard (Aggregation Method [AM]) and the IAIS proposed International Capital Standard (ICS). IAIS will decide later this year whether the AM and ICS are comparable. Government Relations will continue to collaborate with Finance and support Team USA, which is the cadre of regulators representing the US system on this issue, in their efforts to establish comparability.

Recovery & Resolution – *US Guarantee Funds Planted the Flag – State System is World Leader*

The International Relations Committee heard a presentation concerning why the US guarantee fund system is a world leader, through its state-based structure, in protecting policyholders. This presentation was made by the P&C and Life Guarantee Funds to demonstrate that the US system already contains the policyholder protections contemplated by the IAIS.

Long-Term Care – Rate: Multistate Rate Review Methodology → Proposed Cost Sharing Formula

The Long-Term Care Actuarial Working group exposed for comment a proposal to modify the cost sharing formula, which would phase-out increases above a 400% cumulative increase level based upon the following bands:

Current		Proposed	
Range	Haircut	Range	Haircut
Up to 15%	None	First 100%	5%
15% - 50%	10%		
100% - 150%	35%	100% - 400%	20%
Over 150%	50%		
		Excess of 400%	80%

Key Regulator Goal: Phase-Out the Cumulative Rate Increase Curve at the 400% Level

The proposed explicit cost sharing bands were arrived at by utilizing an analysis of filings based upon the 85/25/400 rubric that was conceived to phase-out increases where the policyholder has an attained age of 85, has a policy with a duration of 25 years, or has been subject to a 400% cumulative increase since policy inception. MN completed an analysis of the current methodology and discovered that rate indications accelerated in the 25-year duration range. In order to flatten that curve, the new cost sharing methodology was proposed, which would result in a 80% haircut for rate increases over 400%.

Potential Impact: Proposed Cost Sharing May Allow for More Rate Relief in Near Term

Although the modified cost sharing methodology was developed taking into account attained age and duration, it is clear that 400% cumulative increase phase-out is the central element of the proposed modifications. For cumulative increases between 100% and 400%, it appears that the proposed cost sharing methodology might allow for significantly greater rate increases when compared with the current methodology. Given the disagreement between actuaries, we should not necessarily expect uniform adoption at the desk level. Political judgements will also continue to determine rate approvals going forward.

Tort Inflation: Trial Bar Attempts to Debunk Legal Cost Drivers – Industry and Regulators Push Back

A consumer representative attempted to demonstrate that Tort Inflation is not a significant driver of the increase in insurance premiums, but rather, that premium increases are correlated to a greater degree to catastrophe risk than litigation environment. The presentation relied in part on federal data to demonstrate no significant increase in case filing frequency or severity of losses in litigated matters. It was also argued that Louisiana and Florida do not have a litigation crisis and that reforms have not had any significant impact. Consumer representatives also stated that nuclear verdicts may be appropriate owing to the severity of injury or the imposition of punitive damages.

APCIA responded that the US system is an outlier in the world in terms of the amount of money flowing to plaintiff's lawyers. It was further noted that legal costs are growing enormously and, that insurers want a fair system.

The Florida Commissioner noted that 43 companies have filed for rate reductions since reforms were enacted. The Commission noted that in 2022, out of \$20B in premium, insurers spent \$2.5B defending cases. He attributed much of the success of Florida reforms to the State reforming its contingency attorney fee system.

The head of consumer services for the Louisiana Department noted that losses in the auto context in that State are significantly higher than the national average for bodily injury. We expect these discussions will continue at the fall meeting.

Unfair Bias: *APCIA – Risk-Based Pricing ≠ Discrimination / Consumer Advocate – Insurers - Treated Like Banks*

The Special Committee on Race and Insurance met to hear presentations from the NAIC, industry groups, and a consumer advocate regarding the concepts of unfair discrimination, disparate impact, and proxy discrimination. NAIC’s General Counsel outlined the current state of the law and noted that regulators currently possess the tools necessary to address any concerns regarding discrimination. APCIA lead the industry’s presentation, which centered around the fact that the current legal standard is unfairly discriminatory. The industry noted that policyholders in risky areas typically pay less for expected loss than policyholders in less risky areas. A consumer advocate argued that insurer underwriting should be analyzed by the same standards applicable to banks. The Committee Chair (VT) stated that concepts raised in this context will be considered by other committees between now and the end of the year.

Surplus Lines: *Service of Process Form – Exempt Purchaser Thresholds – Public Adjuster - Prohibitions*

The Task Force exposed an amended service of process form for a period of 30 days, which was amended to address the potential of non-admitted carriers being subject to the jurisdiction of state courts in jurisdictions other than where the insured exposures were located. This new form was developed in an effort to address the potential effect of recent caselaw on non-admitted carriers being subject to a state’s jurisdiction where they are registered to do business, regardless of where the harm occurred (*Mallory v. Norfolk Southern Railway* [Mallory])

Adjustments were made to the Exempt Commercial Purchaser minimum net worth thresholds:

Category	2020 – 2024 (Current)	2025 – 2029 (Adjusted)
Net Worth	\$24M	\$29M
Annual Revenues	\$59M	\$73M
Annual Budgeted Expenditures	\$36M	\$44M

These thresholds are adjusted every five years pursuant to Dodd Frank. The above adjustments go into effect January 1, 2025.

The Task Force also heard a presentation from the National Association of Public Adjusters regarding contractual provisions in surplus lines policies that bar the engagement of public adjusters. It was noted that Texas recently passed legislation barring this practice and that FL, LA, MA, NY, and OH have considered similar legislation. The Association asked for regulator support in their efforts to outlaw contractual provisions that would prevent the engagement of public adjusters.

Privacy: *New Draft Exposed For Comment – Near Term Focus Will be on Third Party Service Providers*

The Privacy Protections Working Group exposed a new draft Privacy Protections Model act, which is an amalgamation of previous NAIC models, last year's NAIC draft as well as an industry proposal. The latest draft focuses on four key areas: third-party service provider agreements, access, correction, and deletion; sale of information, and sensitive personal information. Near term focus will be on issues relating to third-party service providers.

The Working Group requested that industry subject matter experts participate in upcoming drafting groups, which will be led by IL. While the Working Group is optimistic that their work will be completed by the end of the year, discussions may continue into 2025.

Climate: *Scenario Analysis → APCA/Joint Trades Alternative Adopted w/3-Year Sunset*

NAIC adopted the industry's proposal, which will allow insurers to utilize existing models to calculate its exposure to hurricanes that are category 3 or higher as well as wildfire events with 10% and 50% increases. This compromise offers insurers a less expensive option when compared with the NAIC's original proposal.

The NAIC is also developing a climate disclosure dashboard, which will be focused on physical risks, transition risks and coverage trends.

Investments: *Shift in Evaluation Focus (Adopted) – Challenge of Investment Ratings (Pending)*

NAIC has shifted its focus relative to securities valuation from credit risk to investment risk. In the relevant NAIC manual, investment Risk is defined as "the likelihood that an insurer will receive full and timely principal and expected interest." By contrast, Credit Risk is defined as "the ability of an issuer to make payments in accordance with contractual terms." The NAIC made this change because limiting its analysis to credit risk would limit its ability to appropriately assess risks.

There is also a proposal under consideration for the NAIC to challenge credit ratings. The Financial Condition Committee also approved an RFP to specify a process whereby credit ratings would be challenged. This proposal is under consideration owing to the NAIC's historical concern over blind reliance on credit ratings in evaluating investments. This proposal not been fully adopted and will be the subject of further consideration.