



**JOINT MEETING OF THE MANAGEMENT COMMITTEE AND THE
INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION**

**Tuesday, August 15, 2023
11 am ET / 10 am CT / 9 am MT / 8 am PT**

**Ballroom 1, Level 5 of the Seattle Convention Center
705 Pike Street
Seattle, WA 98101-2310**

WebEx Available

AGENDA

1. **Roll Call**
2. **Report on Development of Indexed-Linked Variable Annuity (ILVA) Uniform Standards**

EXPLANATION: The ILVA Subgroup of the PSC is working on a draft of a new Uniform Standard for index-linked variable annuities. The Compact Office will provide an update on the drafting process including noting issues that may need guidance from the Commission members as the Uniform Standard proceeds through the development process.
3. **Report from the Adjunct Services Committee and Discussion on 2023 Strategic Plan Development**

EXPLANATION: The newly-formed Adjunct Services Committee will report on its activities and work plan. The Compact Office will provide an update on the development process for the Compact's 2023 Strategic Plan. The Commission will discuss whether the existing priorities and objectives from the current strategic plan continue for the 2023 – 2026 strategic plan for purposes of developing goals/action items. The existing priorities and objectives are found on page 1 of the Insurance Compact Compass: Strategic Plan 2020 – 2022 is found [here](#).
4. **Public Hearing on Proposed Amendments to the Group Annuity Contract Standards**

EXPLANATION: The Management Committee will conduct a public hearing on proposed amendments to the Single Premium Group Fixed Annuity Contract Standards for Employer Groups. The purpose of the proposed amendments is to expand the Scope to other types of contracts beyond those used in pension risk transfers. The Product Standards Committee recommended the proposed amendments to the Management Committee during the June 27th Joint Meeting. The proposed amendments have been published to the Docket page of the Compact website. Written comments will be accepted on the proposed amendments until August 29, 2023. See attached briefing sheet.

5. **Report and Recommendation of the Product Standards Committee and Management Committee Consideration to Adopt the Report and Commence Rulemaking on the PSC Recommendation**

EXPLANATION: This is a Management Committee action item. The Product Standards Committee is bringing forth a recommendation to publish for 60-day public comment the full suite of group whole life uniform standards for employer groups. The Management Committee will consider action to initiate the rulemaking process for these new Uniform Standards.

6. **Report and Recommendation of the Rulemaking Committee and Management Committee Consideration to Adopt the Report and Commence Rulemaking on the Rulemaking Committee Recommendation**

EXPLANATION: This is a Management Committee action item. The Rulemaking Committee is bringing forth a recommendation to amend the Rulemaking Rule - [Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission](#) – to address incorporation by reference in the Uniform Standards. The Management Committee will consider action to initiate the rulemaking process for these amendments.

7. **Consent Agenda:** Joint Action Item by the Management Committee and Commission to Adopt the Report of the Finance Committee, the Operational Report of the Executive Director and Minutes of the June 27, 2023, Joint Meeting of the Management Committee and the Commission.

EXPLANATION: The action item is to consider adoption by consent the written reports of the Finance Committee, and Executive Director; and the Minutes of the June 27, 2023, Joint Meeting.

8. **Any Other Matters**

9. **Adjourn**

Members of the Commission and Department Staff in Attendance:

Commissioner Kathleen Birrane, Chair, Maryland
Director Eric Dunning, Vice Chair, Nebraska
Erin Hunter as a designated representative for Commissioner Allan McVey, Treasurer, West Virginia
Superintendent Elizabeth Kelleher Dwyer, Past President, Rhode Island
Commissioner Mark Fowler, Alabama
Sarah Bailey as a designated representative for Director Lori Wing-Heier, Alaska
Director Barbara Richardson, Arizona
Jason Lapham as a designated representative for Commissioner Michael Conway, Colorado
Paul Lombardo as a designated representative for Commissioner Andrew Mais, Connecticut
Tanisha Merced as a designated representative for Commissioner Trinidad Navarro, Delaware
Howard Liebers as a designated representative for Commissioner Karima Woods, District of Columbia
Steve Manders as a designated representative for Commissioner John King, Georgia
Kathleen Nakasone as a designated representative for Commissioner Gordon Ito, Hawaii
Shannon Hohl as a designated representative for Director Dean Cameron, Idaho
Jeff Varga as a designated representative for Director Dana Popish Severinghaus, Illinois
Andria Seip as a designated representative for Commissioner Doug Ommen, Iowa
Julie Holmes as a designated representative for Commissioner Vicki Schmidt, Kansas
Malinda Shepherd as a designated representative for Commissioner Sharon Clark, Kentucky
Tom Travis as a designated representative for Commissioner James Donelon, Louisiana
Acting Superintendent Tim Schott, Maine
Sheri Cullen as a designated representative for Commissioner Gary Anderson, Massachusetts
Stephanie Francis as a designated representative for Director Anita G. Fox, Michigan
Tammy Lohmann as a designated representative for Commissioner Grace Arnold, Minnesota
Jo LeDuc as a designated representative for Director Chlora Lindley-Myers, Missouri
Commissioner Scott Kipper, Nevada
Superintendent Alice Kane, New Mexico
Ted Hamby as a designated representative for Commissioner Mike Causey, North Carolina
Commissioner Jon Godfread, North Dakota
Director Judith French, Ohio
Peter Weber, Ohio
Commissioner Glen Mulready, Oklahoma
T.K Keen as a designated representative for Director Andrew Stolfi, Oregon
Commissioner Michael Humphreys, Pennsylvania
Debra Diaz-Lara as a designated representative for Commissioner Cassie Brown, Texas
Commissioner Jonathan Pike, Utah
Commissioner Kevin Gaffney, Vermont
Don Beatty as a designated representative for Commissioner Scott A. White, Virginia
Commissioner Mike Kreidler, Washington
Commissioner Nathan Houdek, Wisconsin
Commissioner Jeff Rude, Wyoming

Legislative Committee:

Representative Jim Dunnigan, Utah
Representative Deborah Ferguson, Arkansas
Senator Laura Fine, Illinois
Representative Tom Oliverson, Texas
CEO Tom Considine, NCOIL

Consumer Advisory Committee:

Brendan Bridgeland
Jane Cline
Deborah Darcy
Anna Howard
Fred Nepple
Bruce Ramge

Industry Advisory Committee:

Wayne Mehlman, ACLI
Eric Weinstein, Massachusetts Mutual Life Insurance Company
Sarah Wood, IRI
Joseph Muratore, New York Life Insurance Company
Amanda Herrington, AHIP

Insurance Compact Staff in Attendance:

Karen Schutter, Executive Director
Becky McElduff, Director of Product Operations & Chief Counsel
Sara Dubsy, Assistant Director of Administrative Operations
Joe Bonfitto, Product Reviewer
Mindy Bradford, Product Reviewer
Ed Charbonnier, Product Reviewer
Susan Ezalarab, Regulatory Coordinator Consultant
Karen Givens, Senior Product Reviewer & Manager
Naomi Kloeppersmith, Actuary
Sarah Neil, Communications and Outreach Coordinator

Commissioner Birrane called to order the meeting of the Joint Management Committee and Commission. Ms. Schutter took the roll call of the Management Committee, the members of the Commission, Legislative Committee, and Industry and Consumer Advisory Committees.

Commissioner Birrane welcomed several new members who had been appointed to lead Compacting States since the last in-person meeting, New Mexico Superintendent Alice Kane, New Hampshire Acting Commissioner D.J. Bettencourt, and New Jersey Acting Commissioner Justin Zimmerman. Commissioner Birrane also noted that effective August 1st, North Dakota became a member of the Compact and recognized North Dakota Commissioner Jon Godfread. Commissioner Godfread thanked Commissioner Birrane for the welcome and stated that North Dakota is happy to have joined the Compact.

Commissioner Birrane moved to the first item on the agenda, to hear a report on the development of Index-Linked Variable Annuity (ILVA) Uniform Standards. A subgroup of the Product Standards Committee has been working on the ILVA Standards. In order to complete their work, there is a foundational policy issue that needs to be addressed by the Commission as a whole. Specifically, how the newly adopted NAIC Actuarial Guideline 54 will impact the interim value methodology in the ILVA Uniform Standard. This is an issue that states will need to address themselves with regard to ILVA products filed on and after July 1, 2024. The purpose of today's update is informational to raise awareness of this important issue. Commissioner Birrane asked Peter Weber of Ohio to

provide his report. Mr. Weber stated that the subgroup wanted to raise an emerging issue regarding the work of the drafting of a new Uniform Standard for index-linked variable annuities.

Mr. Weber explained that these annuity products are in a risk-reward spectrum. There is a range similar to high reward in a stock market gain one year and then a loss the following year. In the middle of the spectrum, there are index-linked annuities. These particular products have features of both a fixed annuity requiring non-forfeiture and a variability annuity which does not require non-forfeiture. Mr. Weber noted these particular products do fill a gap for consumers. The regulations in place at the state level do not fit this product and states have taken different approaches to review and approval over the past 13 years since they first were in the market. Mr. Weber explained that in 2022, the NAIC Life Actuarial Task Force (A) developed a guideline to address interim value calculations which is the calculation applicable if a contractholder must withdraw the funds before the end of an index term.

Mr. Weber noted the primary issue with ILVA products is, what value does the contract holder receive when they withdraw, surrender or die prior to when the interest is credited. With the variable products, it is very easy to know what the daily value is, a consumer buys units and they get that, and the consumer can go and sell it at any point in time and know exactly what they are getting. With ILVA products, it is not so easy to know what will be received at surrender, withdrawal, or death. So that term we use is interim value. What does the consumer get in between the point when the index credit term starts and ends – which is usually different than the start and end date of the annuity contract. The Actuarial Guideline (AG) 54 considers what the consumer is to get for the interim value.

Mr. Weber explained the NAIC adopted AG 54 in the Spring of 2023 and it becomes effective on July 1, 2024. AG 54 explicitly defines only one interim value methodology, and it is referred to as the hypothetical approach. Mr. Weber noted that AG54 allows methodologies “materially consistent” with the hypothetical approach though does not define “materially consistent” for purposes of compliance with AG 54. The question being raised to the Commissioners to think about is should the Uniform Standard include only the hypothetical portfolio approach, or can it also allow “materially consistent” interim value approaches, which would involve discretion by the Compact Office in its review. As the ILVA Standard is being drafted, it currently only accommodates the hypothetical portfolio approach. The industry is asking for other designs, specifically the pro rata approach. Some states have raised concern that the pro rata methodology is not materially consistent with the hypothetical portfolio approach. Mr. Weber noted this will likely be an open issue when the ILVA Standard is recommended to the Management Committee in early 2024.

Commissioner Birrane asked the Commissioners and their staff to start looking at this and reach out to Katie Campbell, Compact actuary, with any questions. The issue for the Commission will be whether to accommodate the ability for a product to meet the “materially consistent approach” or to limit the Uniform Standard to cover only products with the hypothetical portfolio approach.

Commissioner Birrane asked if anyone had questions for Mr. Weber. Mr. Mehlman noted the Compact’s efforts to draft the ILVA Standards are appreciated and looked forward to continuing working with everyone during the development process and addressing various issues, including discussing potential methodologies, other than the hypothetical portfolio method. Ms. Wood also addressed the committee and stated that she echoed Mr. Mehlman’s comments, and the IRI is working with their members to develop responsive comments and the issue of allowing other methodologies is something that is important to its member companies.

Commissioner Birrane moved to the second item on the agenda, a report from the Adjunct Services Committee and Discussion on 2023 Strategic Plan Development. Commissioner Birrane explained this is the committee established during the March Commission meeting to consider how the Compact extends services. The

Committee is chaired by Arizona Director Richardson with Pennsylvania Commissioner Humphreys serving as Vice Chair.

Director Richardson noted the 13-member Adjunct Services Committee had a kickoff meeting at the end of June for all of its members. The primary charge is to consider ideas and proposals that have been brought forth for new and enhanced services and programs the Compact could offer. We have asked the Compact Office to inventory the ideas that have already been presented and have been raised during prior Compact Roundtables.

As part of this, we have asked for as much detail as possible for us to determine what would be involved in implementing these ideas so this would include estimated expenses, headcounts, and associated revenue. Commissioner Humphreys and I have been working with the Compact office on this deliverable. We do appreciate how important it is to receive feedback and suggestions from all members as well as Industry, Consumer Representatives and State Legislators. Director Richardson concluded the report and noted she would be available to answer any questions.

Commissioner Birrane noted the work of the Adjunct Services Committee is going to play an important role in the Compact's strategic planning efforts. A report has been prepared by the Compact office on the accomplishments under the 2020 strategic plan and may be found on the Compact website, under the regulator resources. Commissioner Birrane reported the Officers had tasked Ms. Dubsy, Assistant Director of Administrative Operations, and Ms. Neil, the Communications and Outreach Coordinator, to interview members and other stakeholders to receive feedback on the effectiveness of these accomplishments as well, as input on future strategic action items.

Ms. Dubsy reported that more than 20 interviews have been conducted with Commissioners, state regulators, and members of the Consumer Advisory Committee, at the request of the Compact Officers. More interviews are scheduled for September, to include a meeting with the members of the Legislative Committee and then the Industry Advisory Committee. Ms. Dubsy noted the conversations have been centered around the Compact's accomplishment of the Commission's Strategic Plan adopted in December 2019. Overall, those who have been interviewed have indicated the Compact has successfully achieved what it set out to do with the Strategic Plan. Feedback as to what accomplishments are favored as well as what needs to be enhanced and further developed. Valuable feedback has been received and has generated some recommendations for consideration later this year. As part of the process, Ms. Neil and Ms. Dubsy have asked about additional Uniform Standards to be developed. Several Standards were suggested, and the report will provide the compiled list as part of the final recommendation. Ms. Dubsy thanked those who have already participated in the interviews.

Commissioner Birrane asked the members whether they continue to agree with the three priorities and nine objectives established as part of the Strategic Plan adopted at the end of 2019. Commissioner Birrane noted the priorities and objectives are on the first page of the report. Commissioner Birrane asked if any members have questions or comments related to the continued use of those priorities and objectives from 2019, to guide the planning activities moving forward. Representative Oliverson stated that as the Compact looks at its valuable mission and at adding services, to be mindful of the complex services that it provides today exist under a legislative delegation and to stay within those borders of the delegation.

Commissioner Birrane responded that the Compact members are very focused on that question and are working with counsel to make sure that we are moving within the parameters of what the law currently allows. The Compact members are aligned so that the Compact does not run outside of the Compact's legislative authority. Commissioner Birrane stated that unless there are any objections, the Compact Office will work to draft action

items using those 2019 objectives and priorities. Commissioner Birrane noted the process will be a collaborative process.

Commissioner Birrane moved to the third item on the agenda, Public Hearing on Proposed Amendments to the Group Annuity Contract Standards. These amendments are posted to the Rulemaking Docket of the Compact website and are being made for the purpose of clarifying the scope of the Standard to accept more types of group fixed annuity contracts. The Product Standards Committee recommended these amendments to the Management Committee during the June conference call. The amendments were published for notice and comment on June 29th with written comments due on Tuesday, August 29th. Commissioner Birrane explained the Commission was using the opportunity of being in person to hold the public hearing. Commissioner Birrane opened up the floor for comments with regard to these standards. There were no questions from any online members of our committees, the Legislative Committee, Advisory Committees, or the members of the public. Upon seeing none, Commissioner Birrane concluded the public hearing portion of the meeting. Commissioner Birrane stated that our purpose here today was to invite comments and the written comment is open through August 29th.

Commissioner Birrane moved to the fourth item on the agenda, the report and recommendation of the Product Standards Committee. Commissioner Birrane asked Mr. Lapham to provide the report and the recommendation.

Mr. Lapham stated the recommendation of the Product Standards Committee is to initiate the Rulemaking procedure with respect to 10 Uniform Standards for Group Whole Life Insurance for Employer Groups. The drafts were developed through a subgroup of the Product Standards Committee (PSC). These drafts were developed based on existing Uniform Standards, specifically group term life and individual whole life, with modifications made to address group whole life features. Mr. Lapham noted a subgroup led by Vermont met weekly. Mr. Lapham thanked Ms. Block for effective leadership on this particular issue. The Product Standards Committee exposed the drafts for public comment and held two public calls to obtain further input. Comments were received from two company filers and a member state. As a result of the suggestions from the public calls, the PSC revised the section on participating policies to allow dividend payments to certificate holders and edit when the accelerated death benefit ends to allow a reference to the portability option.

Mr. Lapham reported the ILVA subgroup has issued a second draft and requested comments by the end of August. The PSC is beginning to work on Amendments to Group Term Life, Group Whole Life, Group Disability, Income and Group and Annuity Uniform Standards to accommodate Non-Employer Groups. The PSC stands ready to respond to questions about the 10 Uniforms Standards for Group Whole Life Insurance for Employer Groups and the activities of the PSC. This concludes the report of the PSC.

With no objections, Commissioner Birrane moved to the next agenda item and stated that she would call for a motion to adopt the reports from both the Product Standards Committee and the Rulemaking Committee.

Commissioner Birrane moved to the fifth item on the agenda, report, and recommendation of the Rulemaking Committee. Commissioner Birrane asked Commissioner Pike to give the report.

Commissioner Pike stated that the Rulemaking Committee is bringing forward a recommendation to the Management Committee to consider an amendment to the Compact's Rulemaking Rule which is formally called the Rule for Adoption, Amendment, and Repeal of Rules for the Interstate Insurance Product Regulation Commission. The Rulemaking Committee recommends amending the rule to add a provision for incorporation by reference and the procedure for when the material incorporated by reference is amended. This is in response to a request from the Compact Officers to address how to handle when the material that is incorporated by reference into a uniform standard is amended. In 2021, the Commission had to use emergency rulemaking to

respond to a substantive amendment to an NAIC Standard Nonforfeiture Model that was incorporated by reference into several annuity standards. This proposed amendment to the Rulemaking Rule can be viewed as a clean-up amendment. The Committee started with the “incorporation by reference” provision in the Model State Administrative Procedures Act. The Model State Administrative Procedures Act is specified in the Compact Statute as the required basis for the Compact’s Rules and Operating Procedures with modifications to fit the Compact. The original Rulemaking Rule did not include Section 314 from the Model which covers incorporation by reference. The Rulemaking Committee adapted the provision to apply to the types of incorporation by reference that have occurred or could occur when developing the Uniform Standards. This new provision covers incorporation by reference of an NAIC-adopted model, regulation, procedure, or guideline as well as certain material adopted by an organization of which at least a two-thirds majority of the Compacting States belong to such as NCOIL or NCSL. This amendment to the Rulemaking Rule will also require the rulemaking process be initiated for a Standard when the material that is incorporated by reference has been amended. Using the example from 2021, the Compact would have opened the Uniform Standards where the nonforfeiture provision in the NAIC Model was referenced for a 60-day notice and comment period and would have taken a vote on the Uniform Standards that had the amendment to the incorporated material. The Rulemaking Committee is requesting the Management Committee initiate the notice and comment period for this Rulemaking Rule amendment.

Commissioner Pike reported the Rulemaking Committee is currently reviewing options for addressing regulator concerns about certain types of mix and match filings. Last year, the Rulemaking Committee conducted surveys of the member states and the filing companies to get feedback on the mix and match process. Out of this effort, the Rulemaking Committee has identified six common reasons for the use of mix and match – that is, using a state-filed form with a Compact filed form. The key regulatory concern for states is when they see a state filing that is being used with a Compact filing, they are not sure if it is a legitimate use of mix and match. The Rulemaking Committee has exposed a discussion document with proposed options for addressing this regulatory concern. The Committee will be reviewing comments and expects to have more regulator and public calls before making a recommendation on changes to mix and match. Commissioner Pike concluded the Rulemaking Committee Report.

Commissioner Birrane explained the recommendations made by both Committees initiates the public comment period. Commissioner Birrane then asked if there were any questions. As this is Management Committee action item, Commissioner Birrane asked if there is a motion from a member of the Management Committee to receive the respective recommendations of the Product Standards Committee and the Rulemaking Committee, and to publish their recommendations for notice and comment. Director Richardson made the motion, and the motion was seconded by Director Dunning. A voice vote was taken, and the motion passed.

Commissioner Birrane moved to the sixth agenda item, to adopt the Consent Agenda, which includes the reports of the Finance Committee and Executive Director and the minutes from our last conference call on June 27th. This is a joint action item. Commissioner Birrane asked if there was a motion and a second, by a member of the Management Committee to adopt the Consent Agenda. Commissioner Rude made the motion and it was seconded by Director Dunning. A voice vote of the full Commission was then taken, and the motion passed.

Commissioner Birrane moved to the seventh agenda item, any other matters, and asked if anybody else had any other matters. Commissioner Birrane stated there were two. The first being asking the Commission to consider granting North Dakota a stay of the effectiveness of certain Uniform Standards for a period of 180 days. The North Dakota Department has asked for additional time to decide whether to participate in or opt out specifically of Uniform Standards for individual and group disability income product lines. Commissioner Birrane asked Ms. Schutter to give an overview of North Dakota's request and the procedures for a request for a stay. Ms. Schutter went on to explain that when a state joins the Compact, the legislation provides they have an opportunity to opt

out by regulation of any adopted Uniform Standard by providing notice of their intent within 10 business days of their effective date. North Dakota notified the Commission of its intent to opt out by regulation of all individual and group disability income standards.

Ms. Schutter reported company filers may add North Dakota to life and annuities filing submissions effective August 16, 2023. North Dakota is one of those states with the one-year suicide law. The Compact Office published a notice indicating additional time will be required to perform due diligence for North Dakota add-a-state requests.

Ms. Schutter noted the Department has requested a temporary stay of the effectiveness of the applicable standard for a period of six months. This is a full Commission action item. Pursuant to the opt out procedure states may request stays for 90-day increments and can be extended in 90-day increments. However, the Compact has seen in practice that the Commission has granted up to one-year stays. Understanding the process likely takes longer than 90 days, North Dakota is asking for a stay of six months. Commissioner Birrane asked if anyone had questions for Ms. Schutter about the process. Commissioner Godfread noted that he and his team appreciated the additional opportunity to review the uniform standards and resolve any concerns with their state laws.

Commissioner Birrane asked for a motion from a Commission member to grant North Dakota a stay of the effectiveness of the individual and group Disability Income Uniform Standards. Director Richardson made the motion and Superintendent Dwyer seconded the motion. The motion was adopted by voice vote of the full Commission.

Commissioner Birrane addressed the second item and recognized Don Beatty of Virginia upon his retirement. Commissioner Birrane recognized Mr. Beatty's various contributions to meetings and how he played an instrumental role in the Compact's development and its success. Hearing no other matters to be brought forward, Commissioner Birrane asked if there was a motion to adjourn. Director Dunning made the motion and Superintendent Dwyer seconded the motion. Commissioner Birrane adjourned the meeting.