

Rulemaking Committee
Member Call Summary
Date of Call: December 17, 2020

Oregon Commissioner Andrew Stolfi, Chair of the Rulemaking Committee, welcomed committee members, Compacting State regulators and interested parties. Commissioner Stolfi explained the purpose of the call is to review and discuss the responses from regulators and companies to a survey sent out by the Committee in July. The attached surveys were intended to solicit feedback on the filing, review and approval process for group types other than employer groups. The survey focused on the group types commonly used in states and in the NAIC Models including associations, credit unions, creditor, labor unions and trusts. It also provided an opportunity to identify other or discretionary groups accepted by or filed with states.

These surveys and their responses will be used to help the Rulemaking Committee provide a recommendation for an action item in the Insurance Compact Compass: Strategic Plan 2020 – 2022. Under Priority 1, Action Item 4, *the Rulemaking Committee is to explore whether to expand the Uniform Standards to accommodate group types available in the Compacting States for the authorized product lines, other than the existing employer/employee group type, and if approved by the Commission, commence development.*

The Commission already has several Uniform Standards for group products – however, the scope limits them to employer groups. These products include term life, disability income and annuities. The survey questions seek information to understand what state requirements for non-employer group types for these products are and how companies are filing for approval of non-employer group types.

The survey was kept open for responses until early October. Forty-one Compacting States submitted responses to the Regulator Survey. Thirty-four companies submitted responses to the Industry Survey including one third-party filer. However, six of these companies indicated they did not issue group products and therefore, did not provide substantive responses.

Karen Schutter provided an overview of the survey results as presented in the attached PowerPoint, including a comparison of regulator responses and industry responses to similar questions.

Regulators and Commissioners asked questions during the overview. Commissioner Stolfi asked if more information was known as why some states did not answer yes or no with respect to questions regarding group disability income or group annuities for certain group types. Ms. Schutter responded some states answered they did not have statutes for the product line so did not answer yes or no and others did not provide a reason.

A regulator asked if the category labeled “other” included discretionary groups as discretionary groups require prior approval. Ms. Schutter indicated it was the intent of the Rulemaking Committee for the responding regulator or company to describe the type of group falling under the “other” category. Ms. Schutter indicated some states listed specific groups like firefighters

or rescue personnel. Ms. Schutter indicated most companies identified “other” as discretionary groups.

A regulator asked if the type of trusts were identified in the survey and Ms. Schutter responded there was not a request for trust types. One company said it is very common for companies to create portability trusts when they are issuing group life insurance products to an employer. These portability trusts are formed for the purpose of continuing insurance when the covered person is no longer an employee and generally fall under the trust definition in the model and the state laws. The company commented there would be tremendous efficiencies if an insurer could get approval to use the Compact for approval of the group life forms for the portability trust.

A company asked if it would be important to make a distinction between requirements for filing for the group type like associations in general and filing for a specific group like a specific association. The company indicated some states require approval of each specific group while other states require approval of the group type but not specific group. Ms. Schutter responded that distinction was made in the surveys and in the PowerPoint. Slides 18 and 19 capture industry responses for making one product filing for multiple group types and slides 20 – 22 are industry responses for filing for approval of the specific group. Ms. Schutter indicated the Compact Office would update the Rulemaking Committee regarding the regulator responses with respect to questions regarding approval of specific groups.

Rhode Island Superintendent Elizabeth Kelleher Dwyer commented it is very important for the members to be mindful there is heightened regulatory concerns based on examples in state marketplaces for association groups with respect to health benefit products. Superintendent Dwyer indicated a proposal to address group types in the Compact must clarify it has no effect or relation to the regulation of associations for health benefits products.

One company suggested the Rulemaking Committee consider an interim step of allowing companies to use Compact-approved products for non-employer group types provided the approval or disapproval of the specific group stays with the Compacting State.

Commissioner Stolfi discussed next steps and suggested for purposes of continuing the discussion, the group type of creditor no longer be part of the consideration process as the Compact does not have Uniform Standards for credit life or disability income and only one of the responding companies issues credit insurance. Commissioner Stolfi also suggested tabling consideration of discretionary group types for purposes of the initial recommendation as a small number of responding companies indicated they issue to discretionary groups and that it was a small part of their business. There was no discussion or objections to this approach.

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One company requested the ability to provide an overview to the Rulemaking Committee of federal changes through the SECURE Act which will increase the demand for group insurance products for pooled employer groups that do not fit a traditional employer group.

Commissioner Stolfi suggested as next steps to hear from three to five companies and Compacting States, respectively, to provide an overview of their processes. The Rulemaking Committee is seeking to understand how companies file for non-employer group types and specific groups and what Compacting States require or look for in their review.

Commissioner Stolfi indicated if there were any volunteers from companies or Compacting States to follow up with him or the Compact Office. The next call will be a public call likely in January to hear presentations from regulators and companies.