



SOCIETY OF ACTUARIES

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Are Small Companies Victims of Overregulation?

by Jim Connolly

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In an S.900 world, are regulators doing enough to make sure that small, independent insurers don't disappear into oblivion?

The question was raised in a letter sent to insurance commissioners by James Van Elsen of Van Elsen Consulting in Colfax, Iowa, who frequently represents the interests of small companies.

In the letter, Mr. Van Elsen starts by noting that "every year, there are fewer independent companies as smaller companies are acquired by or merged with larger companies."

In the course of the letter, Mr. Van Elsen writes that an insurance commissioner has a "significant influence on whether smaller companies will continue to disappear."

Insurance commissioners, according to Mr. Van Elsen, must examine the cost of mergers and acquisitions as well as insist on a better analysis from the National Association of Insurance Commissioners when new regulations are being proposed.

"Many new regulations offer very little protection to the public, but continue the assault on the smaller companies' ability to stay in business," he wrote, citing the new model Actuarial Opinion & Memorandum Regulation being considered by the Life & Health Actuarial (Technical) Task Force of the NAIC as a case in point. This regulation's possible cost of requiring a gross premium valuation, he wrote, was a reason for concern by small companies.

The AOMR draft would require all appointed actuaries to render an opinion concerning the adequacy of a company's



reserves, something smaller companies say would be an onerous added expense.

Mr. Van Elsen that state laws regarding mergers and acquisitions need to be changed because commissioners are limited in what actions they can take.

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Small Talk from the High Chair

by Rod Keefer

Those of us who have school-aged children know that May's arrival means two things are not far behind: (1) summer vacation and (2) report cards. While most eagerly anticipate the former, many await the latter with mixed emotions, as the objective assessment of how one's performance compares with expectations can result in much anxiety.

As the Smaller Insurance Company Section approaches its seventh anniversary, perhaps it is a good time for a report card that measures our performance in light of our purpose. Combined, the five bold headings below comprise the Section's purpose as it appears on page 141 of the 1999 SOA Yearbook. Along with the purpose are some of the items that are being done to fulfill that purpose, as well as a few suggestions for

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“Generally states don’t have a lot of latitude objecting to sales [of companies].”

Where insurance commissioners do have more authority, he noted, is to make sure that there is not just “regulation for regulation’s sake.” There needs to be a “more critical” look at why regulation is needed as well as the benefits and costs, he added.

“I do think that the issues he raises are ones that we take pretty seriously,” said Kathleen Sebelius, NAIC vice president and Kansas commissioner.

Insurance commissioners are concerned with policyholder protection and

a broad enough policy base to withstand bad weather for several years, she explained.

“I don’t disagree with the sentiment,” she said, but “you could close your eyes and change the terms and it could be an article about banks or other financial institutions.

“We can only ensure that there is ongoing policyholder protection. We don’t have control over whether the home office is in Topeka or Tokyo,” she said.

In Iowa, according to Terri Vaughan, insurance commissioner and NAIC secretary-treasurer, statutes identify criteria

Scott Cipinko, executive director of the National Alliance of Life Companies in Rosemont, Ill., said solvency standards are “good and important,” but “there needs to be a holistic approach to regulation.”

He expressed concern that small companies not bear a “disproportionate cost of regulation that is really overregulation,” although he said he believes regulators are trying to maintain a balance.

Linda Lanam, vice president and chief counsel of legislative relations with the American Council of Life Insurers, Washington, said the Forum 500, the ACLI’s small company group, is watching how the AOMR project develops.

But she said the issue of consolidation and the possibility of becoming an acquisition target are things that companies of all sizes face.

Although care needs to be taken over what expenses are created for small companies, Ms. Lanam said regulators have the challenge of regulating effectively while being aware of the effect their regulation can have on companies and the potential for creating disparities among different size companies.

Determining whether there is regulation for regulation’s sake is difficult, Ms. Lanam said. When regulators see a problem they want to solve, regulation is the tool they have to work toward a solution, she said.

Additionally, there are different perspectives over what model regulations should accomplish, Ms. Lanam said. Is model regulation simply a guideline to a solution or is it a solution created when there is a national insurance issue, she asked.

Jim Connolly is a writer for National Underwriter.

“Many new regulations offer very little protection to the public, but continue the assault on the smaller companies’ ability to stay in business.”

the value of policies, but there are some intangibles that move beyond regulators’ jurisdiction, she said. It is within regulators’ jurisdiction to make sure that there are sufficient assets to cover a policy, Ms. Sebelius said.

NAIC’s process of developing model laws and regulations is open enough to ensure that the issue of costs is adequately addressed, she said. In fact, according to Ms. Sebelius, regulatory reengineering efforts, both in Kansas and nationally, have been ongoing in an effort to eliminate both cost and time.

For instance, Ms. Sebelius said, in the last five years in Kansas 30% of insurance regulations and 25% of insurance laws on the books have been eliminated because they were antiquated.

“Financial trends are moving toward consolidation,” she said. Fifteen years ago, Kansas had three times the number of domestic companies that it currently has today, she said. There were many property-casualty companies that were either too costly to operate or did not have

for mergers and acquisitions, including guidelines for ensuring that the financial condition of the acquired insurer is not affected.

“Losing a niche is certainly not a reason that we could deny a change of control,” she said.

Ms. Vaughan said she believes regulators do take into account the cost of regulation and added that the minutes of recent Life & Health Actuarial (Technical) Task Force conference calls indicate that the issue of cost has been discussed.

She said that with the AOMR project, it was her understanding that efforts were being made to include a number of options in the model.

Ms. Vaughan said that if industry representatives believe the cost of regulation is an issue, then they need to make regulators aware of the facts. However, she added, that does not necessarily mean regulation should not be enacted because there is a cost associated to regulation.