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PCI Property Casualty Insurers Association of America
Shaping the Future of American Insurance

February 28, 2012

BY ELECTRONIC MAIL

Commissioner Kevin McCarty
President, NAIC
Florida Department Financial Services
200 E. Gaines Street
Tallahassee, FL 32399

Dear Commissioner McCarty:

We wish to call attention to a recent development regarding the NAIC Climate Risk Disclosure Survey and its potential impact on the long-standing NAIC procedural process and spirit of interstate comity and collegiality upon which the efficiency of the state based insurance regulatory framework vitally depends.

On February 1, 2012, the insurance departments of three NAIC member states—California, New York, and Washington — announced their intention to jointly require insurers to respond to a climate risk survey developed by the NAIC.

The NAIC survey was the result of a well-debated and deliberative process at the NAIC. It consists of eight questions designed to elicit qualitative information concerning insurers' opinions and activities concerning "climate change-related risk." As ultimately adopted in 2010, the survey instructions allow each state to decide whether to administer the survey and, in the case of states that did choose to administer it, to determine whether insurer participation would be mandatory or voluntary. In addition, the revised survey instructions state that "survey responses are **confidential**." (Emphasis in the original.)

The implementation protocol calls for the NAIC survey to be administered to insurer groups by "the domestic regulator of the group's lead state (i.e., the regulator overseeing the insurer within the group that reports the largest direct written premium volume)."

While the three states have chosen to use the NAIC survey work product, they have elected to operate outside of the NAIC framework and implement the survey under their respective state laws. Instead of following the "lead state" concept, the states intend to require public disclosure by every insurer group with more than $300 million in nationwide premium that also had a company licensed to do business in any of the three states. The use of nationwide group premium writings as justification for a "licensed" state to impose its regulatory authority on the domestics of other states undermines the comity and interdependence among the states that is the cornerstone of the NAIC accreditation program.

We are also concerned that the tabulation and analysis of the survey filings will not be performed by the three states or the NAIC, but by an uncompensated, yet interested third-party investor advocacy group.

We are concerned about the precedent that this action creates, particularly during a time when the NAIC is undertaking a solvency modernization initiative that seeks to increase the efficiency and effectiveness of state based regulation. It is our position that the interests of insurers and regulators can and do align through effective, efficient state regulation that recognizes the primacy of domestic regulators or lead states for most significant solvency issues, while allowing "license" states to attend to issues internal to such states' markets.

An unintended consequence of the actions by these three states is to undermine such primacy by *de facto* overruling of the decisions and actions of the "lead state" regulator under the NAIC survey process. Such an outcome is hardly the efficient yet effective regulatory process that we mutually seek. Further, the use of interested third parties in what purports to be a solvency evaluation tool opens the system to criticism.

We therefore further ask the NAIC leadership to undertake appropriate action and discussion about the appropriate role of domestic versus "license" states in all matters of principal solvency regulation and examination authority, and to urge the aforementioned states to follow the decisions made in 2010 regarding the use of the NAIC survey.

Respectfully submitted,

National Association of Mutual Insurance Companies
Property Casualty Insurers Association of America

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