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Florida Insurance Update & Emerging Federal Issues

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DISCLAIMER

The materials in this presentation are intended to provide a general overview of the issues contained herein and are not intended nor should they be construed to provide specific legal or regulatory guidance or advice. If you have any questions or issues of a specific nature you should consult with appropriate legal or regulatory counsel to review the specific circumstances involved.



OUTLINE OF PRESENTATION

Florida Insurance Update

- 2007 Florida Legislative Sessions
- Regulatory Focus on Risk Modeling
- CFO Sink's Cat Fund Proposal
- Reinsurance Collateral Rules



OUTLINE OF PRESENTATION

Federal Issues

- National Catastrophe Fund
- National Flood Insurance Program
- Terrorism Risk Insurance Act (TRIA)

International

- Caribbean Cat Fund



2007 FLORIDA LEGISLATIVE SESSIONS

Passed during Special Session, House Bill 1A amended several provisions of the laws regarding the insurance industry, including:

- FHCF
- Citizens
- Coverage Exclusion
- Deductibles
- Payment of Premiums
- Insurance for Condominiums and Similar Entities
- Discounts
- Premium Notice
- Timely Payment of Claims
- Insurer Affiliates and Subsidiaries (“PUPs”)
- Cherry Picking by Auto Insurers
- Hurricane Mitigation



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2007 FLORIDA LEGISLATIVE SESSIONS

HB1A – continued:

- Legislative Intent for Grant Program to Low-Income Persons
- Florida Building Code
- Insurance Consumer Advocate
- Self-Insurance Funds
- Bonding Authority
- Insurance Rating Law
- Reinsurance
- Catastrophic Ground Cover Collapse Coverage
- Sinkholes
- Hurricane Claims Data
- Florida Disaster Recovery Initiative
- Florida Insurance Guarantee Association
- Insurance Capital Build-Up Incentive Program



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2007 FLORIDA LEGISLATIVE SESSIONS

Regular Session

- Senate Bill 2498 – the Legislature needed to clarify many of the provisions enacted during Special Session.
- Committee Substitute for House Bill 7057 – Hurricane Mitigation through no-interest loan program.
- Committee Substitute for Committee Substitute for House Bill 1381 – Insurance Branch Agencies for registration in lieu of licensure.



2007 FLORIDA LEGISLATIVE SESSIONS

Automobile Personal Injury Protection

- Scheduled to “sunset” on October 1, 2007, the legislators attempted to address PIP during the regular session. However, no bill was passed at that time and PIP did sunset as scheduled.
- The Legislature was called into Special Session to address PIP. House Bill 13C, which re-enacts Florida’s Motor Vehicle No-Fault Law effective January 1, 2008, was signed by Governor Crist on October 11.



REGULATORY FOCUS ON RISK MODELING

- Florida's Office of Insurance Regulation issued subpoenas this year to insurers such as State Farm Florida Insurance Company, State Farm Florida Fire and Casualty Insurance Company, Cincinnati Insurance, Cincinnati Indemnity, and Allstate Insurance Company and its subsidiaries to investigate insurance industry practices after these insurers requested hefty rate hikes in required "true up" filings.
- The Allstate subpoenas, in particular, specifically require the production of "any and all Documents and Communications either from or to Risk Modeling Companies."



REGULATORY FOCUS ON RISK MODELING

- Florida Insurance Commissioner Kevin McCarty stated lawmakers may reexamine certain antitrust exemptions given to insurance companies, based on perceptions regarding elements of coincidental rate increases due to actions by rating agencies, catastrophe modelers, and reinsurers, and that there might also be a “thread of collusion” among such groups.



REGULATORY FOCUS ON RISK MODELING

Florida Commission on Hurricane Loss Projection Methodology
Report to the Florida House of Representatives.

- Earlier this year, the Florida House of Representatives undertook an investigation of hurricane loss projection models used in Florida. House Speaker Marco Rubio asked the Florida Commission on Hurricane Loss Projection Methodology to review and complete various comparisons of the Public Model and the four private models previously accepted by the Commission.
- The Commission's report, dated November 5, 2007, found that aside from some abnormalities, the output ranges of models submitted to the Commission under the 2006 Standards fall within the range one would expect given the universe of possible scientifically valid approaches.



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REGULATORY FOCUS ON RISK MODELING

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Report to the Florida House of Representatives.

- Of the five models, the Commission found the Public Model has more observations below the minimum and above the maximum levels generated by the 972 models used as a benchmark for the study.
- The Commission found the variability between the final version of the Public Model is generally greater than three of the long-standing private models (RMS, AIR, and EQE) and less than that of ARA.
- According to the Report, throughout the ongoing review of the models, the work of the Commission has led to a greater understanding of the underlying reasons why carefully crafted models can have different but equally valid results. Methods to reduce variation will be an ongoing concern of the Commission.



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REGULATORY FOCUS ON RISK MODELING

- The debate over the level of regulation of catastrophe modeling firms also persists at the national level.
- At the NAIC 2007 Fall National Meeting, regulators, consumer advocates, modelers and insurer trade associations engaged in the debate.
- The issues surrounding the debate include the use of near-term models, the perception of collusion, and the appropriateness of the regulatory framework as applied to modelers.



CFO SINK'S CAT FUND PROPOSAL

- Florida's Chief Financial Officer Alex Sink proposes to reform Florida's Cat Fund to reduce the potential for future Cat Fund assessments on Florida's insurance consumers. The proposal includes:
- Reorganization of the Cat Fund by creating a "Division" of the Cat Fund to report directly to a "Board" consisting of the Governor and the Cabinet;
- The Division would evaluate the reinsurance markets and the feasibility/risk associated with bond transactions relative to current financial markets;



CFO SINK'S CAT FUND PROPOSAL

- The Division would make recommendations to the Board regarding which Cat Fund optional coverages to offer, limits, and pricing for such coverages for the upcoming reimbursement contract year based on its evaluation of the financial markets and the private reinsurance markets;
- The Board would be authorized to determine which Cat Fund coverages to offer, their limits, and their pricing by February 15 of each year. The Cat Fund's mandatory coverage would not be impacted; and
- Residential property insurers would have an incentive to purchase their reinsurance coverage from the Cat Fund unless they can obtain reinsurance coverage for less in the private reinsurance or capital markets.



REINSURANCE COLLATERAL RULES

- The Florida Legislature in HB1A enacted legislation amending Florida law regarding credit for reinsurance.
- The new legislation authorizes the Florida Office of Insurance Regulation to waive or lower the deposit requirement for all reinsurers, domestic, foreign and alien, based on criteria related to the financial strength of the reinsurer and the quality of the reinsurer's regulatory jurisdiction.
- In addition, HB 1A requires that the assuming reinsurer have at least \$100 million in surplus in order to qualify for this waiver or reduction in required deposit.
- The Office of Insurance Regulation has scheduled a hearing for November 26, 2007 on a proposed rule to implement this new legislation.



REINSURANCE COLLATERAL RULES

- On October 18, 2007, the New York State Insurance Department proposed new regulations for reinsurance companies that are not authorized or accredited, which provides that well-capitalized reinsurance companies with the highest credit rating will be treated the same as authorized companies: they will no longer have to post any collateral.
- The New York State Insurance Department is conducting outreach by circulating a working draft of the proposed regulation to the industry and consumers. It will then go through the formal rulemaking process, which includes publication in the New York State Register and a formal 45-day comment period. The regulations would take effect July 1, 2008 for all reinsurance contracts made on or after that date.



REINSURANCE COLLATERAL RULES

- The Reinsurance Task Force of the NAIC is considering a reinsurance regulatory modernization proposal. The proposal includes:
 - A system to create the Reinsurance Supervision Review Department, which would determine which jurisdictions are “functionally equivalent” to U.S. regulation. Domestic reinsurers would submit to one jurisdiction in order to access the U.S. market.
 - Non-U.S. reinsurers from approved jurisdictions would be certified for access the U.S. market through one jurisdiction or port of entry state.
 - The reinsurance regulatory modernization proposal would provide a framework for mutual recognition between the U.S. and non-U.S. jurisdictions.



FEDERAL ISSUES – NATIONAL CATASTROPHE INSURANCE PLAN

Homeowners Defense Act of 2007

- Reps. Tim Mahoney and Ron Klein of Florida introduced H.R. 3355, the Homeowners Defense Act of 2007, to create a national catastrophe insurance fund to cover massive losses from natural disaster. H.R. 3355 was passed in the House on November 8, 2007.
- The NAIC congratulated the House for passing H.R. 3355. NAIC President and Alabama Insurance Commissioner Walter Bell stated: “This bill is a shining example of where the states can work with the federal government to address a national threat.”
- On November 6, 2007, Senators Bill Nelson and Hillary Rodham Clinton introduced a Senate version of the Homeowners Defense Act.



FEDERAL ISSUES – NATIONAL CATASTROPHE INSURANCE PLAN

Homeowners Defense Act of 2007 – continued

- Under both bills, states would have the option of joining a consortium of state-based insurance funds. The group would then raise money for the program by selling catastrophe bonds and reinsurance contracts to the private market. The program would also provide federal loans to states hit particularly hard by natural disasters once claims hit a certain cap.
- The recent wildfires in Southern California have raised the profile of the legislation, helping to illustrate that the legislation has appeal beyond Florida.
- The Bush administration and insurance trade groups are voicing strong opposition to provisions in the legislation, and the administration is threatening to veto.



NATIONAL FLOOD INSURANCE PROGRAM

- H.R. 3121, the Flood Insurance Reform and Modernization Act, expands coverage and adds windstorm coverage to the National Flood Insurance Program. H.R. 3121 was approved by the House and referred to the Senate at the end of September.
- The additional wind-damage protection in H.R. 3121 has brought a White House veto threat, but House Financial Services Committee Chairman Rep. Barney Frank, whose panel has jurisdiction over the bill, has said he would consider dropping the wind provisions if they impede progress to a final bill.
- The Senate's bill to reform the National Flood Insurance Program does not expand coverage or raise maximum coverage levels and does not include wind damage coverage.



NATIONAL FLOOD INSURANCE PROGRAM

- On November 1, 2007, H.R. 4050, “The Levee-Like Structure Consideration Act of 2007” was introduced in the House by Representative Gabrielle Giffords.
- The National Flood Insurance Program’s flood insurance rate maps currently only include levees accredited by the Army Corps of Engineers in the flood map modernization process. H.R. 4050 requires FEMA to issue guidance for consideration of the flood protection afforded by certain structures for purposes of the National Flood Insurance Program. This legislation is intended to contribute to the overall effort to reform and modernize the National Flood Insurance Program.
- H.R. 4050 was referred to the House Financial Services Committee on November 7, and was ordered reported to the House with a favorable recommendation.



TERRORISM RISK INSURANCE ACT

- The Terrorism Risk Insurance Act (TRIA) was adopted in November 2002, to stimulate business investment and stabilize the insurance market after the events of September 11, 2001.
- The act created a three-year federal program to provide partial compensation for losses resulting from certain terrorist-related events committed on behalf of a foreign person or foreign interest, and was set to terminate on December 31, 2005.
- TRIA provided a shared compensation mechanism for defined terrorism claims to be allocated between the insurance industry and the U.S. Federal Government.



TERRORISM RISK INSURANCE EXTENSION ACT

- On December 22, 2005, President Bush signed into law the Terrorism Risk Insurance Extension Act (TRIEA) of 2005, which extends TRIA until December 31, 2007.
- The act creates a new “program trigger” for any certified act of terrorism occurring after March 31, 2006.
- The new trigger prohibits payment of Federal compensation by the United States Treasury unless the aggregate industry-insured losses resulting from the act of terrorism exceeds \$50 million for 2006 and \$100 million for 2007.



TERRORISM RISK INSURANCE REVISION AND EXTENSION ACT

- The Terrorism Risk Insurance Revision and Extension Act of 2007 (TRIREA), was introduced in the House on June 18, 2007, and passed on September 19, 2007. H.R. 2761 would revise and extend TRIA for another fifteen years.
- The Senate Bill, the Terrorism Risk Insurance Program Reauthorization Act of 2007, would extend TRIA for seven years. The Senate Bill was passed by the Senate Banking Committee on October 17 and is now awaiting floor action.
- The White House has stated it “strongly opposes efforts to expand the federal government’s role in terrorism reinsurance,” asserting that “the most efficient, lowest cost, and most innovative methods of providing terrorism risk insurance will come from the private sector.”



CARIBBEAN CAT FUND

- On June 1, 2007, the World Bank launched the first multinational catastrophe fund and created the Caribbean Catastrophe Risk Insurance Facility (CCRIF). It is funded by premiums paid by participating countries in addition to funding contributed by donors. Caribbean Community and Common Market member countries pay a non-refundable entry fee and annual premium to participate.



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CARIBBEAN CAT FUND

Some of the countries that have subscribed to CCRIF include:

- Anguilla
- Antigua and Barbuda
- Bahamas
- Barbados
- Belize
- Bermuda
- Cayman Islands
- Dominica
- Grenada
- Haiti
- Jamaica
- St. Kitts and Nevis
- St. Lucia
- St. Vincent and the Grenadines
- Trinidad and Tobago
- Turks and Caicos Islands



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