

CLIENT ALERT

## Preview: 2022 NAIC Fall National Meeting

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### AUTHORS

**Kara Baysinger** | **Leah Campbell** | **Stephanie Duchene** | **Matthew J. Gaul**  
**Michael Groll** | **David Heales** | **Donald B. Henderson, Jr.** | **Allison J. Tam**

The National Association of Insurance Commissioners (the “NAIC”) will hold its 2022 Fall National Meeting (the “Fall National Meeting”) from December 12-16, 2022 in a hybrid format, with meetings taking place virtually and in Tampa, Florida. A group of Willkie attorneys will attend the Fall National Meeting in person to follow the key topics listed below, including a newly scheduled discussion of the interest maintenance reserve (“IMR”), among others.

A link to the full agenda for this meeting is available [here](#). Please contact any of the attorneys listed below if you would like to discuss these or other topics before or after the Fall National Meeting.

### **I. Financial Condition (E) Committee** (Thursday, December 15, 1:30pm EDT)

The Financial Condition (E) Committee will receive updates from the following task forces and working groups:

- Statutory Accounting Principles (E) Working Group. The Statutory Accounting Principles (E) Working Group (“SAPWG”) will discuss a new agenda item addressing IMR within statutory accounting, specifically the impact in a rising interest rate environment of the current guidance for nonadmittance of disallowed negative IMR. In connection with the NAIC’s Principles-Based Bond Definition Project, SAPWG is expected to present and expose an updated issue paper and other related updated documents to detail bond reporting changes on companies’ annual statutory financial statements. SAPWG will also provide an update on its efforts to address a referral from the Macropprudential (E) Working Group regarding certain of the Regulatory Considerations Applicable (But Not Exclusive) to Private Equity Owned Insurers (the “Private Equity Considerations”) and is expected to expose a

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revision to *SSAP No. 25—Affiliates and Other Related Parties* clarifying that an investment issued by or including the obligations of an affiliate which is held by its reporting entity is considered an affiliated investment.

- Financial Stability (E) Task Force and the Macroprudential (E) Working Group. In a joint session, the Financial Stability (E) Task Force and the Macroprudential (E) Working Group will provide updates on (i) the work plan to address the Private Equity Considerations and (ii) the Macroprudential Risk Assessment, each as previously reported on [here](#), and consider adoption of the 2022 Liquidity Stress Testing Framework.
- Group Solvency Issues (E) Working Group. The Group Solvency Issues (E) Working Group will provide an update on its efforts to address a referral from the Macroprudential (E) Working Group regarding two of the Private Equity Considerations: (i) the ability of regulators to assess risks posed to an insurance company if affiliate agreements are structured to avoid regulatory disclosure and (ii) addressing conflict of interest considerations even if a private equity firm owns less than ten percent of an insurer's voting securities.
- Valuation of Securities (E) Task Force. The Valuation of Securities (E) Task Force will discuss proposed amendments to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*, including with respect to collateralized loan obligations, related party investments and structured equity and funds investments.
- Receivership and Insolvency (E) Task Force. The Receivership and Insolvency (E) Task Force will consider adoption of a request to amend the *Property and Casualty Insurance Guaranty Association Model Act (#540)* to ensure that cyber insurance policyholders are provided with guaranty fund coverage given the unique and trending nature of cyber insurance. Model #540 is also currently being amended to address restructuring mechanisms such as corporate divisions and insurance business transfers, as previously reported on [here](#).

## II. Innovation, Cybersecurity, and Technology (H) Committee (Tuesday, December 13, 2:30pm EDT)

The Innovation, Cybersecurity, and Technology (H) Committee will hear an update on the Collaboration Forum on Algorithmic Bias, which was developed by the NAIC to allow its relevant groups to collaborate to develop a common understanding of the issue and consider appropriate tools for identifying algorithmic bias in certain artificial intelligence/machine learning (“AI/ML”) models that could potentially unfairly discriminate among consumers of insurance. Willkie will also report on any material updates regarding the (H) Committee's continued development of its Innovation, Technology and Cybersecurity (“ITC”) Hub, which will serve as a resource for users to access various ITC-related resources and follow ongoing NAIC projects related to ITC.

The (H) Committee will also receive updates from the following working groups:

- Big Data and Artificial Intelligence (H) Working Group. The Big Data and Artificial Intelligence (H) Working Group will review its ongoing survey work regarding the insurance industry's use of AI/ML, including the Home AI/ML

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Survey, the draft AI/ML Private Passenger Auto survey and the AI/ML Life Insurance survey that is currently under development.

- Privacy Protections (H) Working Group. Willkie attorneys will also report on the Privacy Protections (H) Working Group's ongoing initiative to replace two existing NAIC Model Laws – the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) – with one new model law, as previously reported [here](#).

### III. **Property and Casualty Insurance (C) Committee** (Thursday, December 15, 2:15pm EDT)

The Property and Casualty Insurance (C) Committee will receive updates from the following task forces and working groups:

- Surplus Lines (C) Task Force. The Surplus Lines (C) Task Force will discuss comments on a further revised draft of the *Nonadmitted Insurance Model Act* (#870), which is being updated for conformity with the *Nonadmitted and Reinsurance Reform Act of 2010*. Outstanding issues include the definition of home state for unaffiliated insurance groups and the use of arbitration clauses in surplus lines policies.
- Catastrophe Insurance (C) Working Group and the NAIC/Federal Emergency Management Agency (C) Advisory Group. In a joint meeting, the Catastrophe Insurance (C) Working Group and the NAIC/Federal Emergency Management Agency (C) Advisory Group will hear an update from the Florida Office of Insurance Regulation regarding the recovery from Hurricane Ian and will discuss catastrophe modeling.
- Title Insurance (C) Task Force. Willkie attorneys will report on any material developments related to the Title Insurance (C) Task Force's discussion of a new alternative to title insurance which is based on using attorney opinion letters backed by specialized liability insurance.

### IV. **Joint Meeting of Executive (EX) Committee and Plenary** (Friday, December 16, 9:00am EDT)

The Joint Meeting of the Executive (EX) Committee and Plenary will consider adoption of certain Common Framework for the Supervision of Internationally Active Insurance Groups (“ComFrame”) elements into the *NAIC Financial Analysis Handbook*, the *Financial Condition Examiners Handbook* and the *ORSA Guidance Manual*. The proposed ComFrame revisions to the NAIC guidance documents, as previously reported [here](#), have been adopted by the Financial Condition (E) Committee.

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### V. **Special (EX) Committee on Race and Insurance** (Wednesday, December 14, 1:15pm EDT)

The Special (EX) Committee on Race and Insurance is expected to consider adoption of recommendations with respect to action steps that state insurance regulators and companies can take to improve the level of diversity and inclusion in the insurance industry.

### VI. **International Insurance Relations (G) Committee** (Tuesday, December 13, 4:00pm EDT)

The International Insurance Relations (G) Committee will discuss the progress of initiatives underway at the International Association of Insurance Supervisors and will hear updates on the work of other international organizations, such as the Sustainable Insurance Forum.

### VII. **Life Insurance and Annuities (A) Committee** (Wednesday, December 14, 2:30pm EDT)

The Life Insurance and Annuities (A) Committee may continue discussion from interim meetings of potential updates to the *Life Insurance Illustrations Model Regulation* (#582) and the *Annuity Disclosure Model Regulation* (#245), in response to consumer protection considerations.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

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**Kara Baysinger**

415 858 7425

kbaysinger@willkie.com

**Leah Campbell**

212 728 8217

lcampbell@willkie.com

**Stephanie Duchene**

310 855 3066

sduchene@willkie.com

**Matthew J. Gaul**

212 728 8261

mgaul@willkie.com

**Michael Groll**

212 728 8616

mgroll@willkie.com

**David Heales**

212 728 8294

dheales@willkie.com

**Donald B. Henderson, Jr. Allison J. Tam**

212 728 8262

dhenderson@willkie.com

212 728 8282

atam@willkie.com

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