Minutes
Public Act 101-0640
Business Interruption Task Force Meeting #4
October 13, 2020
11:00am-12:30pm
Locations:
CALL-IN ONLY
Call-in Information
Phone Number: 1-312-535-8110
Access Code: 1335439072#

I. Opening Comments

Erica Weyhenmeyer welcomed members and guests to the Business Interruption Task Force Meeting and thanked the members for volunteering their time and expertise for the duration of these meetings. She also stated the objective as outlined by the statute, which is to "Study the impacts of the COVID-19 pandemic on businesses and the need for changes to business interruption insurance policies based on those impacts, including recommendations for legislation."

Erica noted that task force members, when answering questions from the public or media, are not authorized to speak on behalf of the task force. She stated that since this is an open meeting, if there are any members of the public or media present, please be aware that if you are speaking with a task force member, any comments by the task force members do not represent the opinion of the task force. This distinction ensures the group is consulted before any formal communication is made on behalf of the task force. She also made clear that the task force does not intend to issue a public comment prior to the final report. The intent of this is to foster open dialogue as the group prepares recommendations. The final report will be the only public comment made by the task force.

She stated that the task force is designed to consider possible systemic issues with business interruption policies and will not be commenting on any pending legal action or complaints filed with the Department.

Erica then went over guidelines related to the technological platform being used.

II. Roll Call of Members/Guests

Erica asked members and guests to introduce themselves.

Members in attendance (alphabetically):

1. Saat Alety, Allstate
2. Chuck Feinen, State Farm
3. Norine K. Hammond, Representative
4. Napoleon Harris, III, Senator
5. Thaddeus Jones, Representative
6. Kevin Martin, Illinois Insurance Association
7. Andrew Perkins, National Association of Mutual Insurance Companies

8. Steve Schneider, American Property Casualty Insurance Association

Companies with an announced attendee (alphabetically):

1. American Association of Insurance Services (AAIS)
2. AIG
3. American Property Casualty Insurance Association (APCIA)
4. Chubb
5. Century Insurance
6. CNA Insurance
7. Country Financial
8. Illinois Insurance Association
9. ISO
10. J W Hammer, LLC
11. Liberty Mutual
12. Nationwide
13. Shaddock & Associates
14. Traveler's
15. Zack Stamp Ltd.
16. Zurich

III. Minutes Adoption

Erica asked if there were any corrections to the draft minutes from last meeting. No corrections were suggested. Erica asked if there was a motion to accept the minutes. Representative Hammond made a motion to accept the minutes. Chuck Feinen seconded the motion. All were in favor and none opposed. The motion passed.

IV. Objective

Erica restated the objective of the task force, which consistent with PA 101-0640, is to "Study the impacts of the COVID-19 pandemic on businesses and the need for changes to business interruption insurance policies based on those impacts, including recommendations for legislation." A report on findings and recommendations is due to the Governor and General Assembly by December 31, 2020.

V. Federal Legislative Proposal Presentations

Deirdre Manna, Senior Vice President and Head of Government Affairs in North America for Zurich North America, presenting on the Zurich concept for facilitating pandemic protection.

Deirdre stated that Zurich North America is a top commercial insurer and that Zurich is aligned with the majority of the insurance industry's stance that pandemics are uninsurable. However, they wish to use their knowledge to help manage evolving risks and have developed a draft concept for facilitating pandemic protection. The concept is designed to work in cooperation with other proposals from stakeholders and federal legislators as a way for insurers to bring ideas to the debate.

Deirdre stated that it's impossible for the insurance industry to financially bear pandemic protection alone. The solution must be attractive and affordable for businesses as well as transparent and reliable.

The financial stability of the federal government must be relied on, however insurers can bring their expertise in underwriting risk.

Zurich's concept shares key elements with Federal Crop public-private partnerships, specifically that businesses voluntarily select coverage through existing brokers and agents, receive premium subsidies from the federal government based on size, and use indemnity payments to cover critical financial obligations of the business. Carriers provide local delivery and service of the program on behalf of government with an opportunity to voluntarily bear risk based on carriers' appetite and the federal government regulates, manages, and financially supports the program.

Deirdre reminded the task force that we are still in the middle of the pandemic and don't yet know the full effect.

The purpose of the concept is to provide stability and predictability to businesses, ensuring the U.S. economy can hit 'pause' and still take care of its people and then to reduce and level out ad hoc disaster payments.

The concept includes a mandatory offer for customers, a take-all-comers approach based on eligibility independent of the business size. If the customer wanted the coverage, the insurer has to offer it. The coverage itself would protect businesses by allowing them meet their financial obligations. The deductible would be based on waiting days.

The parametric trigger would include a federal emergency disaster declaration, a federal disaster declaration by a state, and business shutdown declared at the state level. The concept would incentivize customers to improve their risk profile. The claims process would simply ensure the trigger conditions have been met, but customer would still be required to self-certify losses.

In terms of pricing and enrollment, rates would be determined at the federal level and based on an indexed approach. Distribution would go through the existing agent or broker. Carriers would provide fixed property required to offer customers coverage. A difference in Zurich's concept to other proposals is that carriers would allocate individual policies into three federal reinsurance pools (100% ceded, 95% ceded and 90% ceded). The carriers would make policy by policy placement decisions, there would be no minimum placement requirements by pool/treaty, and there would be no reinsurance caps or aggregates. It would be possible for a carrier to put all of their plans in the 100% ceded pool, therefore taking on none of the risk.

Businesses would work with existing property brokers and agents to voluntarily select coverage level, carriers would then deliver the program on behalf of the federal government with the opportunity to voluntarily bear a portion of the risk as well as offering risk mitigation services. The federal government would regulate and manage the program, subsidize policyholder premiums and pay a portion of the carriers' administrative and operations expenses, as well as establishing a framework for monitoring fraud, waste, and abuse of the federal program. The customer would be responsible for preparing for pandemic risk and making a claim would be a self-certification loss via tax-filings and used to cover critical business obligations.

The major difference of Zurich's concept is the pools, 100% ceded, 95% ceded and 90% ceded. The carrier would determine the pools based on risk, with the 100% pool including business with the highest amount of risk, such as urban restaurants, and the 90% pool including businesses with the lowest amount of risk, including remote professional services. This allows carriers to manage their own risk.

Zurich worked with the Reinsurance Association of America to create a micro-simulation model to test the concept. The model's baseline micro-simulation resulted in a $1.6 trillion insured event based on $3.3 trillion in economic loss, of which $15 billion is born by the insurance industry. 66% of the insured losses were for entities with fewer than 500 employees, more than $1 trillion in losses. Top five states accounted for 42% or $661 billion of insured losses including CA, TX, NY, FL, and IL. The federal government

retained 99% of the insured losses, with $14 billion of insured losses retained by carriers with policyholder surplus of more than $1 billion. It's possible that over the time, the program could evolve and grow as insurers grow comfortable with taking on more risk.

Donald Griffin, Department Vice President, Personal Lines with the American Property Casualty Insurance Association (APCIA) presenting their Business Continuity Protection Plan (BCPP). BCPP is a proposal created in conjunction with APCIA, National Association of Mutual Insurance Companies (NAMIC), & Illinois Insurance Association (IIA).

Don started by explaining some of the math underlying the pandemic protection problem, with the general goal of insurance being spreading risk and then being able to pay for that risk on a long term basis. Thus far there have been $23.5 trillion long-term economic losses according to the Wall Street Journal, or $12 trillion 2020-2021 global economic losses estimated by the IMF, over $3 trillion USG relief provided to businesses mid-year, and $203 billion global insurance losses/$100 billion underwriting. In comparison the greatest previous global insured loss in history was the Hurricane Katrina disaster which cost $54 billion dollars. The total amount collected in U.S. Business interruption premiums last year was $2.4 billion, which means that the premiums would cover only one tenth of one percent of the total cost of the claims estimated by the WSJ, with that becoming two tenths of one percent if using the IMF estimate.

The NAIC testified to Congress and stated that insurance is not "well suited well suited for a global

pandemic where virtually every policyholder suffers significant losses at the same time for an extended period."

Overall, most commercial insurance policies have a communicable disease exclusions. Viral risk has never been broadly covered, but post-SARS in 2006 more exclusionary endorsements were included, intended to provide additional clarity. Communicable disease exclusions have become increasingly widespread in recent reinsurance renewals and primary filings. Reinsurance is the insurance that insurance companies buy to help spread the risks globally and because they will not cover pandemics, the backstop that the industry uses is gone.

The coalition objectives of the Business Continuity Protection Program (BCPP) are to understand and work to address business needs, create a solution to help the U.S. economy manage the risk

of future pandemic events, facilitate economic recovery, and assure a more resilient economy The coalition worked to achieve stakeholder consensus on a constructive solutions.

Jon Bergner, President of Public Policy and Federal affairs with NAMIC to provide additional information on BCPP.

The Business Continuity Protection Program (BCPP) was developed after lengthy review of catastrophic protection models, such as those used in WWII, and included aspects of the Paycheck Protection Program (PPP) had the program been authorized in advance of the pandemic. It would utilize government protection, subsidized offsetting revenue collection, subsidized federal protection and assistance as well as a parametric trigger and strong back-end anti-fraud protections.

The BCPP authorize the Secretary of the Treasury to name a director and stand up the program that would offer revenue replacement assistance to protect the business community. Businesses would voluntary purchase up to 80% of necessary expenses, up to 3 months protection. The application is simple, it offers immediate relief in a crisis through a one-page electronic application. It has a straightforward parametric trigger of a state requested Presidential declaration of disaster. The revenue replacement would kick in automatically based on previous tax returns. One of the downsides of the PRIA proposal is that the certification could be affected by political manipulation, which the BCPP gets around by having the standards set in advance which means there is no certification delay, claims, adjustment delay or uncertainty.

Eligibility for the BCPP would be available to any interested firm in the U.S., including both for-profit and non-profit entities and not barred by size. However, entities must enroll at least 90 days prior to a Presidential viral emergency declaration in order to receive assistance which was designed to prevent businesses from purchasing coverage at the last minute in anticipation of an event. The distribution channel would be through state-regulated insurers, agents, and brokers. There would be a mandatory presentation of the federal protection and then built in policyholder opt-out requirements. If the policy holder officially opted out, they would not be eligible for any sort of federal relief package. The program would also be encouraged to heavily subsidize rates. Both of these measure were added with the goal of ensuring widespread take-up rates.

The private revenue collection would be unlikely to be able to fully pay for a pandemic event, but could be used to help defray possible costs as well as encouraging the purchase of reinsurance or possibly disaster relief bonds. Additionally, the BCPP provides the foundation for private insurance to develop a voluntary excess backstop to cover losses beyond what is protected by the BCPP. Due to the heavy demand for event cancellation programs the BCPP has built in development of financial protection products to address event cancellations that would be developed after the program stood up.

The BCPP would provide businesses with available, simple, immediate relief for businesses directed to close, with federally subsidized availability/affordability. The federal government would have a preestablished private mechanism for distributing immediate closure relief and allow for an alignment of medical and health recommendations, government decisions triggering the program, and business's ability to close. Overall, the BCPP would allow for more economic and legal certainty for everyone.

VI. Structure of Meetings/Next Steps

Chuck Feinen asked if the presentations would be available in the minutes. Erica Weyhenmeyer answered in the affirmative and also reminded the task force that all presentation materials are posted on the website for review. She then suggested that because the presentations were elaborate and had a lot of information, perhaps it was a good idea to let task force members review and then be ready for follow up questions and discussion at the next meeting. Steve Schneider clarified Erica's intention and then agreed that time to process the presentations would be helpful. Representative Hammond asked if it was possible to add the link to the presentation materials on DOI's website to the meeting invites to make it easier for members to review prior to presentations.

Chuck Feinen asked if the Pandemic Response Revenue Replacement Mechanisms chart has been reviewed and deemed to be accurate. Donald Griffin affirmed it had been reviewed by the organizations listed in the chart as accurate. Michael Stern from Chubb mentioned that Chubb's proposal has been referenced in discussion and in the chart but has not been presented officially and suggested that Chubb present their proposal at the next meeting. Erica asked the task force if next meeting's agenda should include a presentation from Chubb, with materials for prior review as well as the previously discussed follow up questions from today's presentation. Erica asked if there were other companies who might want to present and there were none and confirmed today's presenters were available for the next meeting for follow up. Andrew Perkins motioned for an agenda that included follow up on today's presentations, as well as a presentation of Chubb's proposal. Representative Hammond seconded. All were in favor and none opposed. The motion passed.

Steve Schneider acknowledged that in the prior meetings there had been some frustration that the Task Force was relying too heavily on federal plans and suggested discussing some of the statewide initiatives at the next meeting. He cited the Department of Labor's consulting services for small businesses, as well as the DCEO Business Interruption Grant program for small business applicants. He then volunteered to draft a summary of the programs for the next meeting. Andrew Perkins concurred and has additional information on how the DCEO grants have been broken up by legislative district and is willing to share at the next meeting. Kevin Martin suggested preparing a joint resolution for the upcoming Veto Session of the Illinois General Assembly urging Congress to act on federal proposals. Representative Hammond expressed interest in that idea. Erica suggested adding the overview of statewide programs as well as a discussion on a possible Joint Resolution to the agenda for the next meeting. Andrew Perkins made a motion, with Chuck Feinen seconding. All were in favor and none opposed. The motion passed.

Chuck Feinen asked for clarification for the deadline on a draft for the task force report. Erica confirmed the deadline to be December 1st. Chuck asked for details on how the task force would draft something. Erica reminded him that was up to the task force. Representative Jones asked about the timing of future meetings for follow up questions. Chuck expressed worry about the deadline. Representative Hammond asked if it was possible of a synopsis of prior meeting be prepared. Erica agreed to putting together a synopsis including the meeting minutes and presentation materials to be sent to task force members. Erica suggested adding meeting for the week of October 26th. Representative Hammond motioned to add a meeting date for the week of October 26th, Representative Jones seconded. All were in favor and none opposed. The motion passed.

VII. Comments

The meeting was opened for public comments. There were no comments.

VIII. Adjourn

The Meeting adjourned at 12:13 PM.