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COMPLIANCE & ETHICS FORUM FOR LIFE INSURERS

New Horizons in Corporate Governance

2015 Annual Conference

September 17, 2015

Presenters

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What & Who Regulates Corporate governance?

5 Minute Small Group Discussion:

- List each of the regulatory bodies and/or laws that deal with how corporate governance structure and processes must be structured.
- Be as specific as possible.

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What & Who Regulates Corporate governance?

- Sarbanes-Oxley Act of 2002.
- Dodd Frank Act of 2010.
- New York Stock Exchange.
- Model Business Corporation Act (MBCA) – 24 states.
- Securities and Exchange Commission.
- Federal Sentencing Guidelines for Organizations (FSGO).

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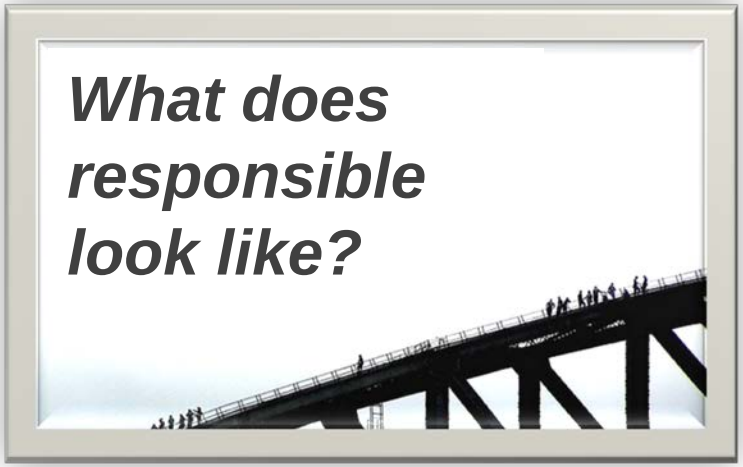
Corporate Governance Defined

Working definition:

A framework of rules and practices by which a board of directors helps ensure accountability, fairness and transparency in an insurer's relationship with all its stakeholders.



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NAIC adopts Models November, 2014

A. Corporate Governance Annual Disclosure (CGAD) Model Act.

B. Corporate Governance Filing Regulation.

- Corporate Governance Annual Filing Guidance Manual – available free from NAIC.
- Part of proposed state accreditation requirements.
- All states are expected to adopt without variations.

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Legislative Status

Five states have enacted the CGAD Models:

- California - AB 553 (Section 1215.75 & Article 10.8).
- Iowa – New Chapter 521H (§ § 521H.1 to 521H.8).
- Vermont HB 73 - (VT. Stat. Ann. 8, § 3316).
- Indiana – (IC 27-1-4.1-10).
- Louisiana – HB 199 (Section § § 22:691.3 to 691.38).

One additional state has proposed the CGAD Models:

- Rhode Island – SB 784 (Section § § 27-1.2-1 to 27-1.2-10).

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Small Companies are not Exempt

A. The NAIC made an affirmative decision not to exempt small companies from any corporate governance requirements.

B. NAIC Corporate Governance Working Group highlighted the need for small companies to:

- Improve their corporate governance structure.
- Strengthen risk management governance.
- Ensure board members are knowledgeable and qualified to make risk & financial decisions.

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Corporate Governance Annual Disclosure Model Act Implementation Roadmap

Awareness

- Requirements
- Communication
- ✓ Boards
- ✓ Business Units
- ✓ Responsible Parties

Identify

- Scope
- Processes
- Cross functional team

Leverage

- Review Existing Documents and Written Responses
- ✓ ORSA
- ✓ COSO
- ✓ Committee Charters
- ✓ Form B & F
- ✓ SEC Proxy Statements

Gaps

- New Questions
- Articulate Existing Processes
- Contemplate "No" Responses

Compile and File

- Review
- Validate
- Communicate
- Sign and File

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Potential Impact on Corporate Governance Structures

- Accountability for governance shifts to Board of Directors.
- Board & committees have ultimate responsibility.
- President/CEO & senior leadership have day-to-day responsibility.
- Board responsible to ensure sound risk-decision making.

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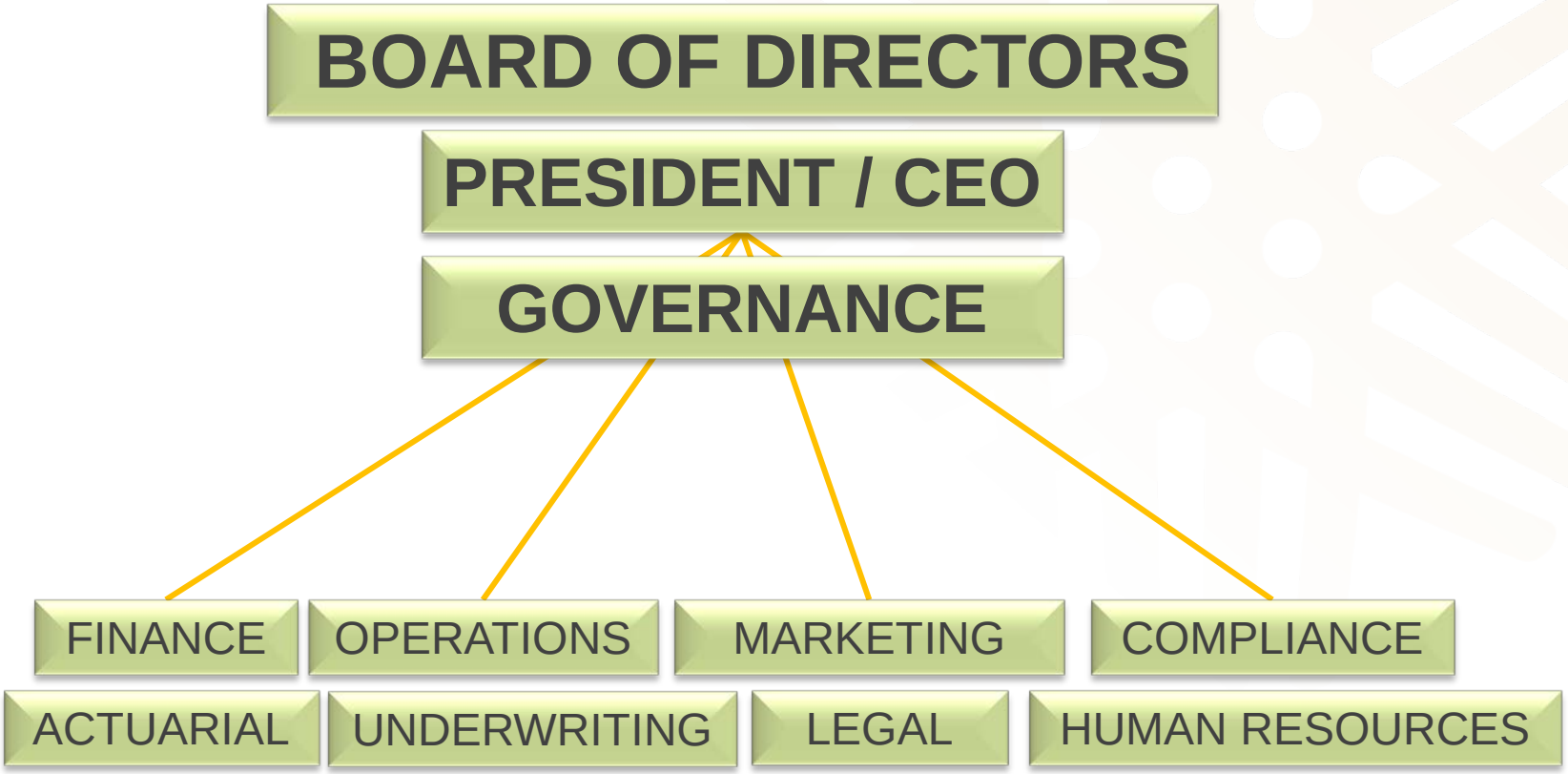
Current Governance Structure



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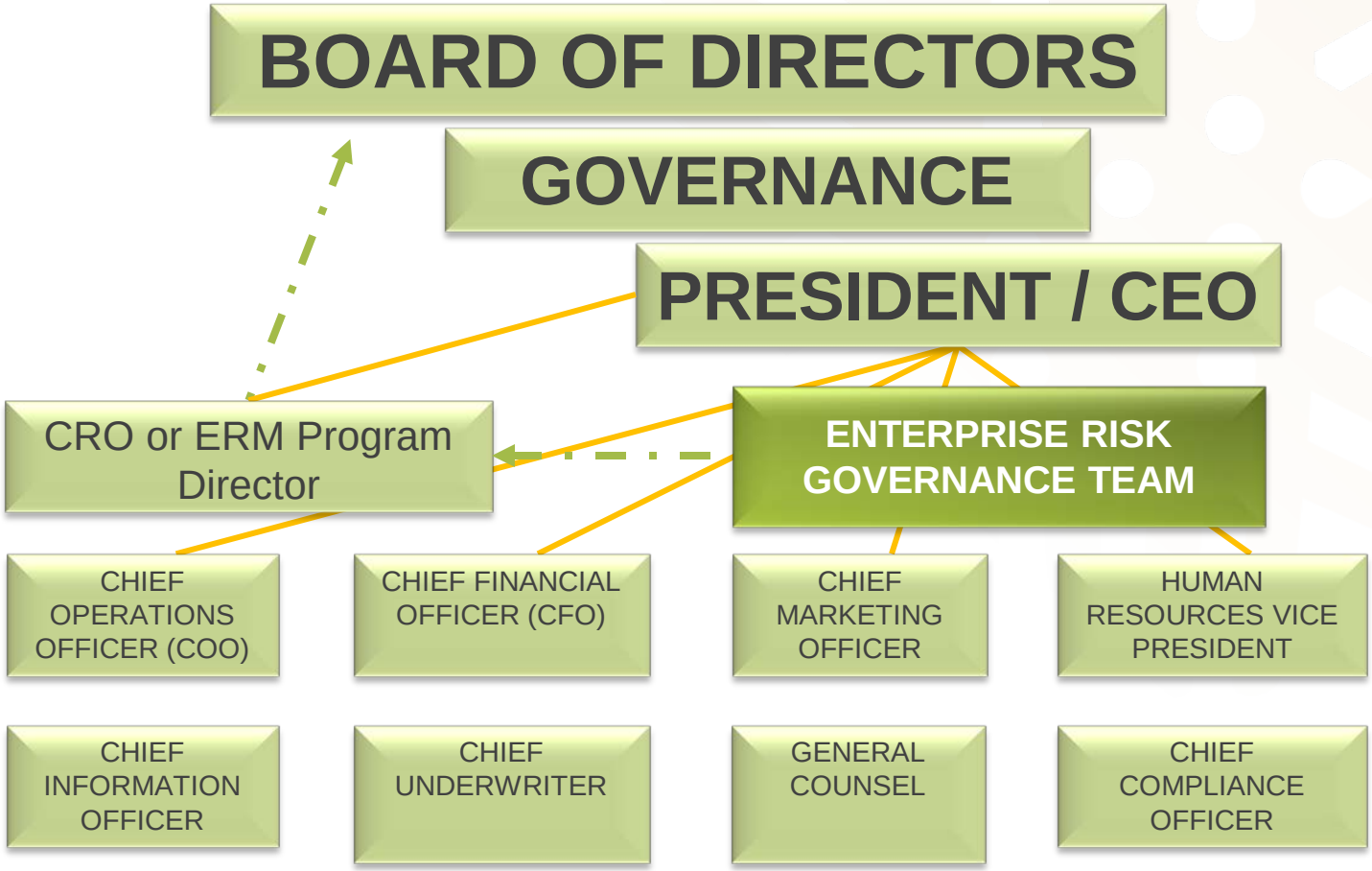
Potential Governance Structure Changes



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Regulatory Examinations of Corporate Governance

Financial Condition Examiners Handbook:

- Onsite review of corporate governance and risk management.
- Interviews of directors and senior management.
- Review of board minutes and activities.
- Overall corporate governance (CG) assessment .
- Market conduct exams: Possible review of CG Issues that might affect the market conduct of the company.

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Stronger Qualification Requirements for Directors

- Regulators will review the makeup of the Board for
  - Appropriate background,
  - Experience, and
  - Integrity to fulfill their prospective roles.

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Stronger Qualification Requirements for Directors

"The Board as a whole should possess the core competencies needed to oversee the insurance company."

- **Examples of core competencies:**
  - Financial literacy
  - Accounting
  - Business judgment
  - Industry knowledge
  - Management
  - Leadership
  - Vision
  - Strategy
  - Ability to communicate
  - Ability to navigate current technology.

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The Role of Chief Compliance Officer

Chief Compliance Officer should:

1. Be a member of the senior management team and report regularly on day-to-day compliance and market conduct issues
2. Lead a Board Level Compliance Committee or report to the Board Level Audit/Compliance/Risk Committee

Regular Reporting to the Board or a Board Committee on:

1. Compliance with laws, rules, and regulations and proactive reporting of any illegal or unethical behavior. Issues including
2. Code of Conduct Updates and Revisions
3. FSGO Annual Reporting on Effectiveness of the Compliance Program
4. Results of Compliance Risk Assessments and Mitigation Plans, if applicable
5. Market Conduct examinations and related reports, findings and mitigation plans

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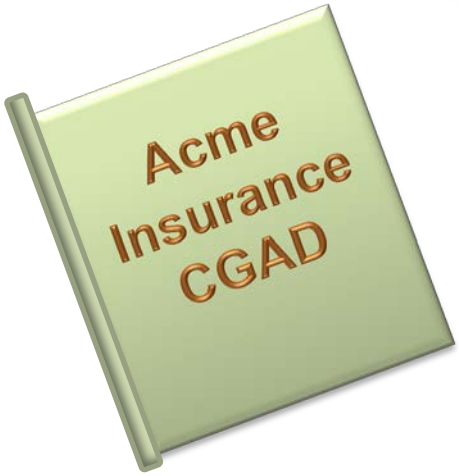
Report What?

Governance practices report narrative:

- To their domestic regulator by June 1st of each year.
- Strict confidentiality measures allow insurers to be open and transparent.
- Insurer discretion in deciding the level at which to report.
- Will vary according to their structure and organization.



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Report What?

The format is a narrative with accompanying documentation.

Corporate Governance Framework & Structure:

- Rationale for current Board size and structure and discussion of the roles of CEO and Chair, the Board Committees.

Board of Director Policies & Practices:

- Qualifications and experience of Directors, their independence as well as the processes for electing Directors and evaluating their own performance.

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Report What?

Management Policies & Practices:

- Utilization of suitability standards for selectin board members, code of business conduct and ethics, & process to oversee compensation & succession planning.

Oversight of Compensation and Performance

- Processes at the Board for performance evaluation, compensation and corrective action

Oversight of Critical Risk Areas

- Including actuarial; investment & reinsurance decision-making; market conduct & compliance; and risk management functions.

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Report What?

Report Annual Updates:

- Changes to corporate governance practices, framework, committees, policies and procedures from the prior year.
- Attested to by CEO or Corporate Secretary.

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Critical Risk Areas for Board Oversight

1. Enterprise Risk management processes.
2. Actuarial function.
3. Investment decision-making processes.
4. Reinsurance decision-making processes.
5. Business strategy/finance decision-making processes.
6. Compliance function.
7. Financial reporting/internal auditing.
8. Market conduct decision-making processes.

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Options for Documenting the CG Framework

- Audit, Risk & Compliance Committee Charter (one, two or three committees).
- Corporate Governance Committee Charter (board level).
- Board of Directors Corporate Governance Guidelines.

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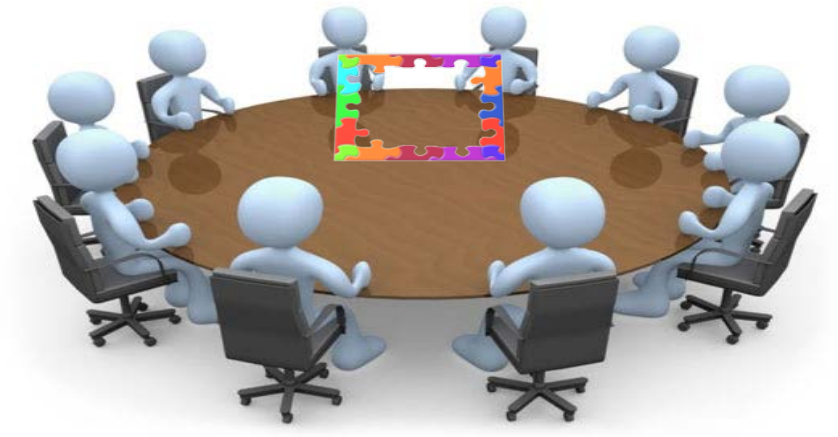
Options for Documenting the CG Framework

- Suitability Criteria for Chief Executive Officers.
- Suitability Criteria for Board of Director Candidates.
- Enterprise Risk Governance Team Charter (Company level team).
- Corporate Risk Policy (part of Code of Conduct).



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15 CONSIDERATIONS FOR EFFECTIVE Corporate Governance

Board Level:

1. Clearly defined roles and responsibilities.
2. Independent and active board members.
3. Individuals who are suitable for their roles.
4. Directors who act in good faith, and exercise a duty of care, loyalty, and candor.

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15 CONSIDERATIONS FOR EFFECTIVE Corporate Governance

Board Level:

5. Board that provides sufficient oversight for all significant company activities.

6. Directors who maintain independence in assessment of programs and assurance as to their reliability.

7. Board that has oversight and approval of executive compensation and performance evaluations.

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15 CONSIDERATIONS FOR EFFECTIVE Corporate Governance

Board & Management:

8. Many channels of communication among board, management, and internal and external auditors for culture of openness.

9. A code of conduct established in cooperation between the board and management, approved by senior management.

10. Identification and fulfillment of sound strategic and financial objectives, giving adequate attention to risks.

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15 CONSIDERATIONS FOR EFFECTIVE Corporate Governance

Board & Management:

11. Support by relevant business planning and proactive resource allocation.

12. Support by reliable risk management processes across business, operations, and control functions.

13. Reinforcement of corporate adherence to sound principles of conduct and segregation of authorities.

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15 CONSIDERATIONS FOR EFFECTIVE Corporate Governance

Board & Management:

14. Objective and independent reports of findings to the board or appropriate committees thereof.

15. Adoption of Sarbanes-Oxley provisions, whether or not mandated, including, but not limited to, auditor independence and whistle-blower provisions.

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QUESTIONS???

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