



BOARD OF DIRECTORS MEETING

The Board meeting of the Colorado FAIR Plan were held at 8:30am on February 2, 2024 at 8354 Northfield Boulevard, Suite 2710, Denver, Colorado, 80238.

Those present:

Board of Directors:

Bryan Bernier – Board Chair	CO Ins. Trade Ind. Agent	PIIAC
Trina Markey – Vice Chair	Admitted Mutual	State Farm Insurance Company
Carole Walker	CO Ins. Trade	RMIIA
Jae Walker	Admitted Mutual	Liberty Mutual Insurance Company
Mark Woods	Admitted Stock	Travelers Insurance Company
Brad Levine	Consumer Advocacy	Levin, Sitcoff, Waneka
Martin Burlingame	Insurance Producer	One80 Intermediaries
Tim Anderson	Admitted Stock	Hudson Insurance Group
Ellen Testolin	Consumer Advocacy	

Colorado Department of Insurance:

Michael Conway – Commissioner	DORA – Division of Insurance
Debra Judy – Deputy Commissioner	DORA – Division of Insurance
Keilani Fleming	DORA – Division of Insurance

Other:

Mark Hillis	FAIR Plan Cost Sharing Alliance
Melissa Chlon	FAIR Plan Cost Sharing Alliance

Staff:

Call to Order, Roll Call, Anti-Trust and Approval of Minutes

Mr. Bernier called the meeting to order, held roll call for the Board Members and guests and noted that a quorum was present. Mr. Bernier acknowledged the Anti-Trust statement, and welcomed Ellen Schaeffer.

General introductions then took place.

1. Commissioner Conway Comments and FAIR Plan Updates:

Commissioner Conway shared his appreciation with the Board for the work being done. He noted that the pressure was increasing as to the need of the FAIR Plan. Further indicating that there may be parts of the state where the need will be much greater than others. He noted that January 1, 2025 needed to be the latest date that the Plan is operational and ready to issue policies.



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He noted that he didn't expect any legislation in this session that would impact the FAIR Plan but expects that something down the road may be presented.

Commissioner Conway noted that there were some concerns with the coverage caps/limits as well as the limitations on coverage that were presented on the PowerPoint and that he looked forward to discussing further.

Ms. Walker referenced the HOA market challenges and how the FAIR Plan could not address the possible HOA need, and indicated a study would be taking place.

Commissioner Conway indicated that there was a lot of pressure on the HOA front but noted that the FAIR Plan would not be used as an affordability option. The Plan is a market of last resort available only when no other coverage exists.

2. Board Update:

Mr. Bernier provided an update on the status of the Board and outlined the structure of future meetings.

- Board Chair – Bryan Bernier, PIIAC
- Vice Chair – Trina Markey, State Farm
- Secretary – Tim Anderson, Hudson Insurance
- Industry Relations – Carole Walker, RMIIA

Board meetings will be moved to monthly, and the Executive Committee will continue to meet bi-weekly.

3. Plan of Operations Task Force Report:

The Plan of Operations Task Force reviewed the progress on the Articles of Association. Ms. Markey began with her review of the Personal Lines solution. She reviewed the limits outlined within the regulations and the focus on making sure the FAIR Plan was successful. She noted that the committee had reviewed Oregon and Washington States FAIR Plans who had similar fire exposures as part of their research. She noted that the E&S markets appear to be successful in those states for adding the liability coverage if needed. Mr. Burlingame and Commissioner Conway discussed the peril of water, and whether the E&S markets could write that cover.

Ms. Markey noted that the concerns of the FAIR Plan initially needed to remain focused on the challenges consumers were experiencing with fire.

Commissioner Conway noted again that he believes the pressure on the cap in coverage may be an issue with wildfire exposures.

Mr. Burlingame and Mr. Woods had a general discussion on the limits in coverage related to the increased value of homes and exposures.



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Ms. Fleming asked about the allocation of the coverage and the cap. Mr. Burlingame noted that the product coverage could be allocated as needed under the cap. Mr. Burlingame provided insight on what the E&S markets could provide in today's markets, and noted there may be challenges in specific areas. Commissioner Conway asked specifically about non-admitted, and Mr. Burlingame noted that they have not had any presence.

Ms. Markey then reviewed the anticipated covered perils under the DP1 and noted the covered perils and general exclusions reflected on the PowerPoint.

Commissioner Conway asked about the ability to educate consumers and or producers regarding the FAIR Plan operations. Ms. Walker noted that she believed a CE course may need to be considered as a requirement for any producer who would use the FAIR Plan. The Alliance noted that a CE could be prepared but there would be a time component built into adding that course especially if completion of the course and recording the appointments needed to be stored and followed up in the policy and claim system. Mr. Levin opined that there should also be some education for lawmakers as well.

Ms. Shaeffer and Commissioner Conway discussed the time frame, and what the legislature might do if the time frames were challenged given everything that needs to be done in this short time frame. Commissioner Conway noted that if there was a stronger impact on the real estate markets there may be additional pressures.

Ms. Markey reflected again that the DP1 was where the FAIR Plan needed to start with a \$750k aggregate limit. Commissioner Conway asked about the proposed percentage deductible for hail. Mr. Woods indicated that initial talks were at the 10% mark and noted again that the FAIR Plan should not be a competitor. Commissioner Conway noted that he had strong concerns about limiting coverage to ACV. Mr. Burlingame noted that a basic form DP 00 01 and Commercial CP 00 010 were ACV forms.

Ms. Fleming inquired as to the average values of those customers who have reached out to PIAC seeking help in finding coverage. Mr. Bernier noted that the values really ranged based upon areas and construction types.

Continued general discussions took place regarding the DP product proposal and forms related to same to make sure the coverage was limited.

Ms. Fleming asked about the time needed to stand up the DP1 vs DP3, and Commissioner Conway asked if the Alliance could stand up a DP1 and DP2 at the same time. Ms. Chlon opined and reviewed the need for regression testing and that each line, or additional need required additional testing to make sure that the system was fully operational.

Mr. Woods then reviewed the Commercial Proposal. He noted that the recommendation was to utilize a CP 00 010 form providing for basic Commercial coverage. He noted that he was seeking a general understanding of the intent of the \$5m in coverage and "location". A general discussion took place about the need in HOA's and how contiguous coverage would be addressed or if this



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could be addressed with clarity around “location”. Mr. Bernier noted that HOA’s may be breaking up a building’s ownership. Mr. Burlingame noted that producers in other states are redefining property locations and ownership to take advantage of other coverage options currently. Both Mr. Burlingame and Mr. Bernier noted their concerns with trying to have a FAIR Plan solve a large HOA challenge today. Mr. Bernier also noted that of all the HOA’s which have contacted PIIAC, all were able to be placed, the premium dollars were just higher.

Commissioner Conway asked Mr. Woods if the FAIR Plan wanted to define “location” as the industry has historically. Mr. Woods indicated that this was in fact the intent, and the need for the FAIR Plan. The Commissioner further inquired as to whether one commercial property owner would be limited in coverage if they were within 100 feet of another commercial property owner. Commissioner Conway and the Board had general conversation around the premise of HOAs reorganizing themselves to secure additional coverage outside of the Plan of Operations max limits. The group agreed that supporting documentation would be required to show historical ownership.

Commissioner Conway inquired about the ability of the markets to wrap in coverages under the CP 00 010 which were excluded. Mr. Burlingame opined that it was complex, but that he believed that this could be done and that markets were available.

A discussion then took place regarding the term “climate change” as outlined in C.R.S. and Commissioner Conway noted that from his perspective, this was an availability issue rather than a climate change issue and he wanted the focus to be on availability. Ms. Walker and Mr. Woods opined that they agreed that the challenges driving availability were driven by hail and fire.

Mr. Bernier, Ms. Walker, and Ms. Chlon spoke about the need for decisions related to the system build with the initial focus being upon the lines of business and forms to be available on January 1, 2025. Commissioner Conway indicated that they would have a decision back to the FAIR Plan board next week.

A general discussion then took place about producer requirements to present applications to the FAIR Plan. While the discussion was tabled for the time being, there was general consensus and agreement that any licensed producer (captive or independent) could present applications to the Plan.

Commissioner Conway agreed to DP1 and Commercial as presented in the PowerPoint presentation and an ACV product initially subject to the Boards vote.

A general discussion took place related to renewal processes tied to the FAIR Plan. Ms. Chlon noted that some states offer a 1 year term, and others will offer a renewal for up to 3 years. And then a conditional non-renewal will be sent. There was agreement with Commissioner Conway to accept the 3-year term followed by a conditional renewal.



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A commission conversation took place for placing new and renewal business, and there was agreement by the board and Commissioner that the Board could decide so long as commissions did not exceed 10%.

Ms. Chlon inquired about the term “average” related to assessments and Commissioner Conway agreed that the decision of the Board related to same. She then inquired as to 30 days tied into the assessment and when to elevate to DORA. Mr. Burlingame agreed to revisit the Articles of Association draft to provide for clarity. A first, and second notice will be sent, and then a final notice with notice given at that time to Commissioner Conway’s office. Commissioner Conway reiterated that he is available to support the Plan during the assessment and can be looped in at any point during the process.

Mr. Woods spoke as to limitations on the assessment amount noting the 1% max assessment which Ms. Chlon had addressed. Commissioner Conway and Deputy Commissioner Judy noted that C.R.S. did speak to assessments.

4. Colorado DORA & FAIR Plan Board Asks:

Commissioner Conway spoke to the need of specific direction from the DOI regarding the status of the Plan and whether a COA would be needed. Mr. Hillis noted that most residual markets were created statutorily and as such, were not defined as insurers nor did they need a COA. Commissioner Conway noted that they would take this under further consideration and hopes to have an answer the week of February 5th.

5. Other Business and Next Meeting:

Mr. Bernier noted that the next meeting would take place on Friday February 16th at 8:30am MT via Zoom.



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6. Adjournment:

Board Chairperson Bryan Bernier then called for the Board to move into Executive Session and the full board meeting was adjourned.

The Board Meeting adjourned by unanimous consent.

Respectfully Submitted,

Bryan Bernier
Board Chair

Trina Markey
Vice Chair