



BOARD OF DIRECTORS MEETING

The Board meeting of the Colorado FAIR Plan was held at 8:30am on February 16, 2024 via Zoom with notice having been posted to the Plans website.

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
Tim Anderson	Admitted Stock	Hudson Insurance Group
Ellen Testolin	Consumer Advocacy	

Colorado Department of Insurance:

Keilani Fleming

DORA Division of Insurance

Other:

Mark Hillis
Melissa Chlon

FAIR Plan Cost Sharing Alliance
FAIR Plan Cost Sharing Alliance

Guests:

Melanie Penfield

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

1. Call to Order

Mr. Bernier called the meeting to order.

2. Anti-Trust Preamble

Mr. Bernier noted that all Board members had previously signed the anti-trust statement, and that it had also been provided as a meeting handout reminding Board members that they were bound by same. Mr. Bernier then read the Anti-Trust statement.

3. Roll Call and Introduction of the Board



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Mr. Bernier took roll call for the Board Members and guests and noted that Mr. Burlingame had provided his proxy to Mr. Bernier, noting that a quorum was present.

4. Approval of Minutes

Mr. Bernier noted that the General Session Minutes of the prior meeting on February 2nd 2024 had been posted to the Plans website, and were also provided to all Board members prior to the meeting.

Mr. Bernier noted that the Minutes of the prior Executive Session meeting on February 2nd had been provided to the Board. He further reminded the Board that they had voted on and approved the 2024 and 2025 Administrative Budgets and approved same, and needed to ratify that vote, and also that the Board had met and agreed to pend the Korn Ferry engagement, and that vote also needed ratified.

Ms. Carole Walker moved to accept the Minutes of the February 2nd General Session meeting, Mr. Brad Levine seconded, and the motion carried.

Ms. Carole Walker moved to ratify the 2024 and 2025 budget vote, Ms. Markey seconded, and the motion carried.

Ms. Walker moved to ratify the email vote to pend the Korn Ferry engagement, Mr. Levin seconded, and the motion carried.

5. Updates and Decisions

a. Plan of Operations

Ms. Markey reviewed the updated Plan of Operations draft with the Board seeking any additional items for discussion and noted that she believed that it should be shared with the Commissioner's office prior to official filing.

Ms. Markey noted that within the Plan of Operations, there is reference to separate Underwriting Guidelines which are yet to be developed. Ms. Chlon agreed with this strategy. Ms. Markey noted that with the agreement of the Board, she would be happy to send the Plan of Operation to the Commissioner for his review, and then the UW task force would begin working on the foundations for the Underwriting Guidelines/Manual.

Mr. Anderson asked about waiting for an Executive Director to be on board as part of this process. Ms. Markey noted that given the time frames that there needs to be continued movement forward with the Underwriting Guidelines. Ms. Walker agreed with same. Mr. Woods noted C.R.S. stated clearly that the Plan of Operations needed to address some of these items. Ms. Walker noted that in the



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negotiations of the statute, the intent was to have a high level Plan of Operations, with a set of Underwriting Guidelines. Mr. Jae Walker noted that he believed the Plan of Operations was intended to be a higher level document, with specific Underwriting Guidelines to be developed following the agreed upon Plan of Operations.

Ms. Markey noted that the Plan of Operations would not have specific risk detail. She then showed the current draft of the Plan of Operation and reviewed same asking for the Board to cite any areas in which they would like to talk through further.

A review of the disbursement process then took place. Mr. Hillis reviewed two options. The first being that the Plan follows the Colorado escheatment protocol. The second being to return funds to members. Mr. Levin noted that he believed that following the escheatment process was advisable and that this should be reviewed with Plan counsel for clarity.

Ms. Markey then reviewed the Lines to Be Written and noted the Commissioners approval and agreement on same. Mr. Woods asked about CE requirements for producers to be able to access the FAIR Plan. Ms. Markey noted that at this point, as long as a producer was licensed in the state, and had completed CE requirements, they would be able to utilize the FAIR Plan. She further noted that the CE component needed to be further developed so that producers could be identified as having successfully registered and completed the CE course. Ms. Walker noted that the CE credits should be required, but at the same time, noted that the Board may want to consider that initially perhaps other CE credits could be accepted. Ms. Markey agreed with same and noted that the FAIR Plan product was unique and there was concern that producers have a full understanding of the uniqueness of the FAIR Plan products. Board agreed that by using the word “may” tied to a requirement to have CE training would suffice within the Plan of Operations.

Mr. Levin inquired about the standards for proof of three (3) declinations as required to be considered for applying for coverage with the Plan. Mr. Bernier noted that there would be variances, but the intent was that the market be fully searched with the producer using true due diligence before submitting to the Plan. Ms. Walker briefly discussed the non-admitted markets and asked if there could/would be requirements to address core standards around due diligence of producers to find coverage. Mr. Bernier noted that depending upon how the Plan was defined as an admitted or non-admitted, there could be additional items required. Ms. Fleming noted that the Commissioner did have a decision on this, but that she would prefer this come directly from Commissioner Conway, however



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she noted that the Division of Insurance was leaning towards the Plan being non admitted.

Ms. Markey moved to the Assessment wording within the Plan of Operation. There was general agreement that the initial assessment would be sent out, at day 31 a second notice or reminder would be sent out and at day 61, a final notice would be sent and at that time, copied to the Commissioner of Insurance.

Mr. Walker noted that he believed the statutory language regarding a company's ability to recoup assessment dollars be included in the Plan of Operation.

Mr. Woods then asked about the 1% cap on assessments and asked about industry standards. Ms. Markey asked the Alliance if they could do some more research into this, and Mr. Hillis noted that they would do so and report back in the next week.

Ms. Markey noted that the next steps included following up with Plan counsel to review the Plan of Operation, as well as the take aways of the Alliance regarding the cap on assessments.

Mr. Anderson wanted to review coinsurance within the Plan of Operation. His concerns were that if it were removed from the Plan of Operation. Ms. Markey and Mr. Anderson agreed that the policy form should speak for itself. Mr. Walker noted that he agreed that language related to co-insurance should be addressed in the underwriting guidelines.

There were no other discussion on the Plan of Operations.

b. NAIC Lines for Assessment

The Board next discussed the different lines of business to be assessed upon. Ms. Chlon noted that there were a couple different options regarding philosophies for choosing lines. The first being to simply use what is going to be offered day one. The second being assessing based upon lines that may be written down the road.

Mr. Anderson opined that the Plan should only assess based upon the lines that the Plan be writing, and that if they offered expanded coverages, the lines to assess upon could be broadened. Ms. Markey and Ms. Walker agreed with same. Mr. Walker inquired about Farm being , and Ms. Walker noted that it would not be. Mr. Anderson also noted that auto and farm were specifically called out in statute.

Ms. Markey recommended that the board consider assessing based upon lines 1, 4 and 5.1. General discussion took place regarding NAIC line 26 (Burglary and Theft). Mr. Levin asked for further discussion.



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Ms. Markey motioned to accept NAIC lines 1- Property Commercial and Personal Property, 4 – Homeowners, and 5.1 – Commercial Non-Liability for assessment purposes. Mr. Walker seconded. The motion carried unanimously.

c. **Assessment Letter**

Ms. Chlon then reviewed the draft assessment letter which had been provided to the Board in advance of the meeting. Ms. Walker opined that the website FAQs being referenced in the letter may be helpful. Mr. Anderson led a general discussion around defining the assessment calculation. Ms. Chlon asked if the Board would like to see an updated draft. The board requested same and Ms. Chlon clarified that the Alliance would complete same, and send back to the board for a mail vote.

d. **Assessment Timeline**

Mr. Bernier noted that the Chair and Vice Chair had met with the local bank and were working through finalizing setting this up. Ms. Chlon asked about access to a scanner to be used for BOD (business onsite deposit) purposes to be able to process payments received through the assessment. Mr. Bernier noted he would keep Ms. Chlon updated on the bank process.

Ms. Chlon reviewed the timeline needed for the assessment and items that needed to be addressed.

- The Board will share a copy of the assessment letter to the Commissioner
- Letters will be generated no later than April 1st
- Information will be sent to NAIC listed contacts
- As needed, Alliance may also email assessment letters
- 2nd Requests will generate on day 31
- Final request will be sent at day 61 with notice to Commissioner Conway

Ms. Walker moved and Mr. Levin seconded to accept the timeline as outlined. The motion carried with unanimous consent.

e. **Member Company Surcharge**

Mr. Walker reviewed the company surcharge again, and noted prior discussion related to making sure this was addressed within the Plan of Operation. He noted that there was a pending decision by the Division of Insurance on factoring assessments into future rates as well as if a premium tax would be applied to future years.



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There was agreement to share the PIPSO information with the Division of Insurance if this assisted in the Commissioner providing a response. Mr. Walker motioned to share the information with DORA. Ms. Walker seconded and the motion carried.

f. Payment Plans and Electronic Payment Fees

Ms. Chlon recommended various payment plan options along with a \$6 service fee for payment plans. She also reviewed two options regarding online payment fees (credit cards, ACH, etc.). She explained that option 1 is to pass along the fee to the consumer. Option 2 is for the Plan to absorb the fees. Ms. Chlon recommended Option 2 given the consistency of the fee amounts. Mr. Levin opined that from a consumer advocacy standpoint, the Plan should absorb the fee. Ms. Walker opined as to same, believing that if the Plan were to pass along the fee to the customer, there may be political pushback. Mr. Bernier asked about whether this could be considered “rebating” and asked for the Division of Insurance to opine. Mr. Walker wanted to make sure that these fees were absorbed in the expense ratio. Ms. Chlon indicated that the installment fee was also considered in offsetting this. Ms. Fleming agreed to take this away to the Division of Insurance to opine on same.

g. Complimentary PIPSO Membership

Ms. Chlon advised the Mr. Hillis had worked with Mr. Stephen Jablonski who is the President of PIPSO and that Mr. Jablonski had asked the PIPSO executive committee to consider providing an initial complimentary membership which would allow for some ISO discounts. The PIPSO executive committee unanimously approved a complimentary term through 12/1/2024.

Ms. Chlon asked for a motion by the Board to accept the PIPSO complimentary relationship. Ms. Walker opined that she had attempted to work with PIPSO to secure a complimentary membership, but hadn't had success. She noted that she believed it would be beneficial. Ms. Markey noted that she further agreed. Ms. Markey motioned to allow Mr. Bernier to execute the complimentary membership. Mr. Woods seconded. A general discussion took place with Mr. Levin confirming the 90 day notice to cancel same if necessary. Ms. Markey noted that there were funds in the operational expense budget for the PIPSO membership should the board decide to continue into 2025. The motion passed unanimously.

6. Communication Task Force Update

Ms. Walker noted that there had been discussion on a strategic plan for communications. She noted that some basic items needed to be spoken to and addressed and then written into a strategic plan. Ms. Testolin indicated their intent



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to meet this next week to put further work into the beginnings of an outline for this initial plan.

Ms. Walker noted the need to have consistency in communications by the board. She referenced the amended PIPSO document section titled "Discussion on Board of Directors Duties and Responsibilities Communications between a Board Member and an External Third Party and Communications between Board Members and the Media". She reminded them how critical it was that the Board all adhere to these outlines and duties.

Mr. Hillis suggested that the PIPSO document was a living document. Mr. Bernier and/or Ms. Markey will email said document to the Board.

7. Other Business

a. Accounting Update

Ms. Chlon reviewed the current accounting document showing what had been paid by Alliance for Colorado expenses to include hourly costs. She noted that it was her intent to share similar financial updates monthly.

b. System Update

Ms. Chlon noted that the contract with Finys is being finalized and that she had been working diligently to secure the needed integration vendors. She noted that work had begun on the policy application forms for DP1 and Commercial lines and would be including some fire mitigation questions specific to markets challenged by the risk of wildfires.

c. Next Meeting

The next General Session and Executive Session Board meetings will be in-person and will take place at 8:30am MT on March 1, 2024 at the PIIAC offices.

Mr. Bernier noted that he believed the Board and the Alliance had worked diligently and noted that it was the Boards intent to submit the draft Plan of Operation to DORA next week. He further noted that the Board had agreed to the lines of business to be written as well as the limits of coverage.

Mr. Bernier reminded the Board of the date and time of the next meeting which is taking place on Friday, March 1st in the PIIAC offices at 8354 Northfield Boulevard, Suite 2710 in Denver Colorado beginning at 8:30am MT.

8. Adjournment

Ms. Walker motioned to adjourn the general session. The Board Meeting adjourned by unanimous consent.



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Board Chair Brian Bernier called to move to Executive Session. Pursuant to Section 24-6-402(3) of the Colorado Revised Statutes, Mr. Bernier moved that this regular public meeting of the Colorado FAIR Plan Association Board adjourn and that, upon an affirmative vote of at least two-thirds of the members present for this motion, the Board reconvene in executive session for the sole purpose of discussing the Executive Director search to include salary studies, benefits options and overall strategy as authorized by C.R.S. 24-6-402(3)(a)(III) and C.R.S. 24-6-402(3)(a)(v). Mr. Levin seconded. The Board moved unanimously to proceed into Executive Session.

Respectfully Submitted,

Bryan Bernier
Board Chair

Trina Markey
Vice Chair