

Proposed Recommendation from FACI to FIO from the Availability Subcommittee

FIO Activities Arising from the Federal Interagency Task Force on Long-Term Care Insurance

September 29, 2020

Recommendation: FACI recommends the following actions by FIO in response to two recommendations in the “Report of the Federal Interagency Task Force on Long-Term Care Insurance” (“Report”). Among other things, the Report recommends that

- FIO coordinate an analysis of the impact of LTC combination products on the market for LTCI risk protection;¹ and
- Federal policymakers work with their state counterparts and with private sector stakeholders to evaluate and monitor the market for limited LTCI, including potential impacts on the risk pool for longer-term products and on Medicaid²

The recommended actions for FIO are:

1. Identify key issues / metrics that should be part of market monitoring for these products;
2. Identify current information about participants, sales, claims and other data relevant to inform the key issues in these two product markets;
3. If needed, propose any additional data collection for states/NAIC or FIO or others to monitor these markets: and
4. Include analysis of these markets in FIO's annual report.

Discussion

Background

In 2019, FACI suggested work streams for the Availability Subcommittee. One of the work streams was long-term care insurance (“LTCI”). More specifically, FACI asked the subcommittee to review the expected output of the Federal Interagency Task Force on LTCI and the output of the NAIC LTCI (EX) Task Force.

¹ Report at page 5. The Report is available at <https://home.treasury.gov/system/files/136/Report-Federal-Interagency-Task-Force-Long-Term-Care-Insurance.pdf>

² Report at page 5.

The NAIC LTCI (EX) Task Force met largely in regulator-to-regulator only sessions through 2019. In mid-2020, the TF created three working groups to examine restructuring options for LTCI blocks of business, a national approach to LTCI rate review and guidance for insurers offering reduced benefit options in lieu of a full rate increase.³ FOCI will hear an update on the NAIC activities at the September 29, 2020 FOCI meeting and the subcommittee will continue to monitor the LTCI work of the NAIC and offer a recommendation if and when appropriate.

The Interagency Task Force issued their Report in August 2020. The Report included 8 recommendations, which are briefly summarized as:

1. FIO coordinates an analysis of the impact of LTC combination products on the market for LTCI protection;
2. FIO monitors the market for Short Term LTCI;
3. Congress amends the Internal Revenue Code to permit payment of incidental benefits under qualified LTCI policies;
4. Congress amends the Internal Revenue Code to revise inflation protection to authorize Treasury to set inflation protection standards for qualified LTCI policies;
5. Congress authorizes HHS to amend inflation protection for LTC partnership LTCI policies;
6. Congress amends or authorizes HHS to amend federal law references to NAIC models;
7. FIO monitors NAIC action on national approach to LTCI rate reviews; and
8. Federal agencies work through the Financial Literacy Education Commission to assess and improve federal education resources on LTC.

In reviewing the Report's recommendations for possible activity by FIO, the subcommittee noted that recommendations 3, 4, 5 and 6 are legislative proposals for Congressional action. We don't see a significant role for FOCI or FIO on these issues, since the recommendations are already coming from a number of federal agencies. FIO is part of one of those agencies.

Item 7 is already part of FIO's Dodd Frank responsibility and FIO is already doing such monitoring. We don't see anything new or additional here.

Item 8 doesn't seem to be FIO-focused as the FLEC has access to organizations whose focus is LTC, LTSS activities or education.

³ Information about the work of the LTC (EX) TF can be found here: https://content.naic.org/cmte_ex_ltc_tf.htm
The three work streams of the TF are described at pages 4-5 of the TF's August 2020 meeting materials at https://content.naic.org/sites/default/files/national_meeting/LTCI%28EX%29TF_080720_materials.pdf

Items 1 and 2 seem like a reasonable focus (beyond general market monitoring) for FIO activities. Consequently, our recommendations, set out above, focus on possible FIO activities regarding these two Report recommendations.

While health insurance is outside the scope of FIO's Dodd Frame mandate and authorities, an issue of interest to the states is the impact of LTSS demand and availability and take-up of LTCI on state Medicaid budgets. The subcommittee welcomes any guidance from FOCI and FIO on further work on this topic.