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Riders on the Storm

Insurance commissioners coping with the onslaught of post-recession regulations found themselves at a historic crossroads.

by Dennis Gorski

They became the first responders to the waves of new insurance and financial regulations that emerged after the Great Recession.

State insurance commissioners and their teams of analysts, who were usually involved in nothing more dramatic than a rate increase request, found themselves in the storm's eye of technically complex new domestic, European, British and Asian "solutions" that were all designed to prevent a financial meltdown from ever occurring again.

Almost overnight, these state commissioners were called upon to deconstruct the workings of companies like AIG, MetLife, Prudential and scores of others, to weigh risk protocols, capital sufficiency, stress capacity and myriad other regulatory challenges. They had to implement untested requirements for the first time. By 2010, regulators across the country had landed in terra incognita.

They soldiered on, because "everybody's trying to figure out how this new world works," as one former commissioner explained.

What these men and women got, in exchange, was "the cachet of being a regulator," according to Margaret Resce Milkint, managing partner of the Chicago-based insurance recruitment firm The Jacobson Group and leader of its U.S. executive search practice. She's been doing talent searches for the firm for 30 years.

"Regulators today have moved into a broader spectrum," Milkint said. "Where we were was very focused on product approval, filing type issues. Today they're asking questions that are quite probing, quite detailed, and it covers the full gamut on risk and technology and security and bringing us into that lens of compliance."

Key Points

Where They Were: Many insurance commissioners were caught in the wave of new domestic and global regulations following the recession.

What They Did: Teams of state regulators deciphered, interpreted and applied these untested new regulations for the first time.

Where They've Gone: They've transferred their unique knowledge of the new regulatory landscape to companies and firms that want to understand these new domestic and international rules.

Domestically, modern regulators may be immersed in understanding Own Risk and Solvency Assessment one day, the Fed's directives the next day, and seeing a new development from the International Association of Insurance Supervisors the day after that.

"How the regulatory regime is responding to the increase of international standards, etc., has not all been written," according to Eric Dinallo, former New York superintendent of insurance. "Part of the excitement and the great thing about being at a law firm is trying to help clients be responsive in a dynamic regulatory environment both internationally and domestically." Dinallo joined the New York City-based law firm of Debevoise & Plimpton in 2010.

Another former member of New York's insurance regulatory body now at Debevoise, Eugene Benger, said his experience as the New York Department of Financial Services' General Counsel for Insurance permits him to give clients a fresh perspective.

"Just the nature of having been a regulator gives you a sense of where things are going, what regulators are thinking about when they are looking at these issues," he said. "What are their considerations? Oftentimes what you bring to clients is a non-business perspective, which is insightful for some clients to hear. It's a complex web of things that affect regulators that clients may not be aware of."

Milkint agrees. "This heightened role of the regulator, this cachet of the regulator, the knowledge of the regulator is something that really is new," she said. "And it's creating a new way that we're looking

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at the regulator and his or her experience."

Former Pennsylvania Insurance Commissioner Michael Consedine left the Keystone State in January to become senior vice president, deputy general counsel and executive director of government affairs for Transamerica.

"The last five to 10 years have been times of historic change," Consedine said, "and I am incredibly fortunate to have been able to contribute to a lot of the discussion around the issues and the development of the policies that went out and were implemented."

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Margaret Milkint,
The Jacobson Group

He said passage of the Dodd-Frank Wall Street reforms by Congress in the summer of 2010 "in and of itself would have [brought] groundbreaking, precedent-setting changes to the insurance landscape." Then came the Affordable Care Act, "the global development that was occurring post-financial crisis [and] you really did feel as if you were in the midst of history," he said.

Changing Everything

The experience of being a commissioner or high-ranking executive in the insurance regulatory scheme in the aftermath of the recession was career-altering.

"Certainly when you're working with representatives of other branches of government, representatives of the industry, internal lawyers and you're hashing out language, that does give you both a certain expanse of knowledge and a certain perspective on how things are done," Benger said.

However, he said, NYDFS needed to stay cognizant and not steer away from the intent of the new laws. "The language of the statute or the regulation is the language, no matter what you may have thought of it at the time or what someone intended," he said.

In fact, some regulators scaled the nearly vertical face of the regulatory cliff so impressively that now they are sought-after candidates for global insurance players who need their expertise to thrive.

"Most people would agree that, more than ever, there has been an emphasis and a need for advice and counsel in the regulatory area," Dinallo said. "Transactions, M&As etc. have never been as regulatorily sensitive as today. And it's clear that the clients and the markets ask difficult, front-end loaded questions about regulatory concerns, potential approvals, etc. Increasingly this might even begin to involve questions about federal regulatory views and overseas regulatory views."

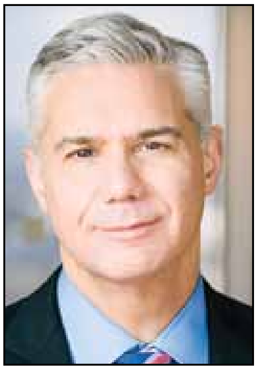
And, he added, regulators' right-place, right-time experience makes them highly valuable to private employers. "I think there's no doubt that advisers, whether it's investment banks, law firms or accounting firms, are looking to expand their ability to give relevant advice by former regulators in these areas. You see it in a lot of the recent hirings," Dinallo said.

For Jacobson's Milkint, the sea-change cannot be overstated.

"I believe regulators today are in the midst of a career renaissance," she said. "This is their moment. This is an opportunity where they are viewed as industry leaders, industry experts with a level of scrutiny and meticulous analysis that they offer and they provide. They are well-suited to emerge. Whether they decide to stay in the regulatory environment where they're absolutely needed, or they decide that they do want to venture into the private sector, I think the private sector, from my experience, is receiving them very well."

Dinallo, however, wants to clarify that it's not about former regulators being wired in.

"It is not about being connected or having access," he said. "It's about understanding from a first-hand point of view how regulators think about and approach questions and issues. We could give examples where the rules and laws say something but how that will be interpreted by a regulator post-crisis and with this big overhang from the international regulatory regime is important. And none of that comes from who has access or connections to certain agencies—it's about a certain expertise gained through experience."



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Debevoise & Plimpton

Educating the Fed

Former regulator Pamela Ewing, who was director of financial analysis with the Maine Bureau of Insurance, is now general manager of the Insurance Compliance Solutions practice for Wolters Kluwer. She tracks and analyzes regulation, compliance, market conduct and risk management for clients and holds CPCU, ARM-E, AU and AIS designations.

Ewing said a trend she's seeing at the regulatory agencies and consulting firms that support regulatory activities is a big uptick in hiring of quantitative experts and data analytics experts. "There's a strong interest in building on those areas of expertise so they can take advantage of the new data forces and technology for advanced analytics. That's a big area of focus for the examination companies and the regulatory agencies themselves."

She said firms and regulators are "upping their game" especially in big data and visualization technology.

One of the most important developments she's seeing is the emergence of the Federal Reserve in the regulating of insurance companies. Ewing said she advises clients for the agency's inevitable involvement.

"They're an interesting new player," Ewing said. "They clearly have clout. They are definitely an empowered regulator, much like the states are, but come from the banking perspective. The industry folks I've talked to said if they start to engage in working with this new regulator, there's been an education process in helping them understand the nuances of the insurance industry. I think we'll start to see some of the regulatory methods that have been used in the banking industry start to appear in the insurance industry."

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Eugene Benger,
Debevoise & Plimpton

Benger added, "I think that the Federal Reserve may develop some kind of hybrid capital model reflecting the fact that you don't have runs on insurance companies, and that matching assets and liabilities is far more important to insurers than it is to banks."

Consedine added that the regulatory environment poses challenges for companies looking to grow. "Right now, regulatory uncertainty is probably near the top of every CEO's list of issues for 2015. And until you can bring certainty to a marketplace, and certainly one might be the insurance sector which thrives on having known and stable regulatory environments, it's going to be challenging for a company to commit to aggressive growth," he said. "There still is so much uncertainty about what the direction we're going in some of these key areas."

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Michael Consedine,
Transamerica

He also advises Transamerica to take a holistic view of regulation rather than a one-side-versus-another approach. "I think [all regulatory arenas] are a reality. It's not that one is necessarily going to win out. I think that's the dynamic that companies find themselves in."

He added, "It's not just a case of state or federal or international. It's a question of state and federal and international. What I'm trying to do in this position is help guide management through this very new, developing landscape and do what we can do to make sure our policyholders are put first."

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Pamela Ewing,
Wolters Kluwer

Agencies as Talent Sources

The ability for seasoned regulators to transfer their unique regulatory skills to the private sector has never been stronger, Milkint said. "We're looking at them more as sources of talent than ever before." She said regulators with five to seven years will be able to fulfill many private midlevel positions. "There's a lot of talent in [state agencies.] They see a variety of companies and a myriad of issues and that's very rich experience with very rich talent.

"Demand is growing and steady," Milkint added. "There's a considerable need for expertise that is regulatory- and compliance-related. It touches every area of the [insurance] business, not just where we'd normally see it—in compliance and legal. Certainly in risk, certainly in IT with the issues around cyber and cybersecurity."

She said opportunities are opening in mid-management, for emerging leaders as well as for senior leaders. "The C-suite, I think, is very open to this, and I think certainly the VP and the midlevel. And if you go from being a commissioner to being a general counsel, that's a C-to-C move," Milkint said.

Ewing wants her clients to take a philosophical view of all the new regulations and requirements, especially ORSA, and she tries to convey that there are actual benefits to the way their business will perform.

"Everyone understands it's an investment," she said. "These are core business management activities that they're expecting to see evidence of. 'Show me your strategic planning, your business planning and how you built a risk framework around that.' It's really evidence of strong management and strong governance, and those are things that are bound to improve the health of the business." BR