

# Consumer Driven, Consumer Protected - Regulatory Supported Innovation

*Presented by ACLI and APCIA*

Gabrielle Griffith  
gabriellegriffith@aclি.com

Angela Gleason  
angela.gleason@apci.org

October 7, 2021

# Innovation and Consumer Choice

- Consumers are increasingly showing preferences for electronic access to their records in lieu of paper mailings.
- Consumer benefits include: flexibility, speed, simplicity, cost-saving, mobility and expanded access
- The trades fully support the ability of insurance customers to take full advantage of e-commerce while preserving their ability to choose how they interact with insurers and producers.
- Industry is also supportive of our ability to take full advantage of innovation and technology on an equal footing with other providers of financial services.

# E-SIGN and UETA

E-SIGN and UETA both include four basic pillars:

- A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- If a law requires a record to be in writing, an electronic record satisfies the law.
- If a law requires a signature, an electronic signature satisfies the law. *UETA §7, E-SIGN §7001(a).*

# Electronic Delivery of Insurance Documents and Notices

- While ESIGN and UETA clearly allow for the delivery of most insurance documents via electronic means (excepting delivery of cancellation and nonrenewal notices by life and health insurers), UETA arguably preserves certain nonelectronic delivery means (UETA 8(b)(2)).
- Certain state regulations specify, for example “first-class mail” delivery for certain documents and notices.
- These provisions were adopted long before the advent of e-commerce and their impact (if any) in our view should be viewed as unintentional.
- However, this does create a lack of clarity which a number of states have attempted to address, creating some lack of uniformity.

# Regulatory Accommodations due to COVID

- When COVID severely impacted face to face interactions, insurance regulators made a number of both permanent and temporary accommodations.
- These include:
  - Waiving wet signature requirements for regulatory filings
  - Allowing for remote notarization
  - Allowing for remote regulatory examinations
  - Allowing for remote, proctored producer examinations

# Industry Recommendation(s)

- The e-commerce and technology landscape has changed dramatically over the past quarter century.
- Insurance regulators have been supportive of the ability of insurers and producers to interact with their customer electronically.
- Insurance regulators have also responded to the challenges brought on by COVID to make necessary regulatory accommodations.
- Industry does not believe new laws/regulations are necessary to further innovation.
- We believe an innovation and technology handbook could provide necessary clarity and guidance for regulators and industry.

# Innovation and Technology Handbook

## Chapters

- Introduction
- History and Present State of Electronic Regulation
  - Electronic filings and signatures
  - SERFF
  - Notarization
  - Remote market conduct and financial exams
- History and Present State of Insurer Uses of Technology
  - Uniform Electronic Transactions Act
  - Electronic Signatures in Global and National Commerce Act
  - Delivery of Consumer Notices
  - Replacement
- Producer and Adjuster Electronic Regulation
  - NIPR
  - Remote Producer Exam
  - Pre-licensing Education/Continuing Education/Appointments/Renewals/Terminations
    - Other Electronic/Technology Issues
    - Appendix
    - Best Practices
    - FAQs
- Other Issues

# Industry Recommendation for an Innovation and Technology Handbook

- When COVID severely impacted face to face interactions, insurance regulators made a number of both permanent and temporary accommodations.
- These include:
  - Waiving wet signature requirements for regulatory filings
  - Allowing for remote notarization
  - Allowing for remote regulatory examinations
  - Allowing for remote, proctored producer examinations



# Looking to the Future

- Industry believes experience reveals that the regulatory accommodations made in the light of COVID worked extremely well, and to the extent they were not made permanent should be.
- Some greater clarity around electronic delivery may be desirable but we do not believe new laws/regulations are necessary.
- We do hope legislators and regulators are open to an evolving future where electronic transactions become the norm, and a sometimes cumbersome opt-in regime is no longer needed. J
- For the present, we believe an NAIC Innovation and Technology Handbook is the best path forward and we look forward to providing any assistance we can to bring this to fruition.