



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Date: 3/10/21

Virtual Meeting

MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP

Tuesday, March 23, 2021

3:30 – 4:30 p.m. ET / 2:30 – 3:30 p.m. CT / 1:30 – 2:30 p.m. MT / 12:30 – 1:30 p.m. PT

ROLL CALL

Rebecca Rebholz, Chair	Wisconsin	Teresa Kroll	Missouri
Tate Flott, Vice Chair	Kansas	Martin Swanson	Nebraska
Maria Ailor	Arizona	Hermoliva Abejar	Nevada
Jimmy Harris/Crystal Phelps	Arkansas	Leatrice Geckler	New Mexico
Scott Woods	Florida	Guy Self	Ohio
Sarah Crittenden	Georgia	Katie Dzurec	Pennsylvania
October Nickel	Idaho	Michael Bailes/Rachel Moore	South Carolina
Erica Weyhenmeyer	Illinois	Maggie Dell	South Dakota
Lori Cunningham	Kentucky	Shelli Isiminger	Tennessee
Erica Bailey	Maryland	Shelley Wiseman	Utah
Mary Lou Moran	Massachusetts	Ned Gaines/John Haworth	Washington
Jill Huisken	Michigan	Letha Tate	West Virginia
Paul Hanson	Minnesota		

NAIC Support Staff: Tressa Smith/Teresa Cooper

AGENDA

1. Consider Adoption of its Feb. 24 Minutes—*Rebecca Rebholz (WI)* Attachment 1
2. Receive an Update on the Travel Market Conduct Annual Statement (MCAS)
—*Rebecca Rebholz (WI)*
3. Receive an Update on the Other Health MCAS—*Katie Dzurec (PA)*
4. Receive an Update on the Accelerated Underwriting (Life) and Digital Claims
(Home and Auto) Subject Matter Expert (SME) Groups—*Rebecca Rebholz (WI)*
5. Discuss the Placement of Complaint and Lawsuit Data Elements Within the
Homeowners and Auto MCAS—*Rebecca Rebholz (WI)* Attachment 2
6. Discuss MCAS Lawsuit Definitions—*Rebecca Rebholz (WI)* Attachment 3
7. Discuss Any Other Matters Brought Before the Working Group
—*Rebecca Rebholz (WI)*
8. Adjournment

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Draft: 3/11/21

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
February 24, 2021

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Feb. 24, 2021. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Tate Flott, Vice Chair (KS); Maria Ailor (AZ); Scott Woods (FL); Sarah Crittenden (GA); October Nickel (ID); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Mary Lou Moran (MA); Erica Bailey (MD); Jill Huisken (MI); Teresa Kroll (MO); Martin Swanson (NE); Jeffrey Arnold and Katie Dzurec (PA); Michael Bailes and Rachel Moore (SC); Maggie Dell (SD); Shelli Isiminger (TN); and Letha Tate (WV).

1. Adopted its Nov. 16, 2020, Minutes

The Working Group met Nov. 16, 2020, and took the following action: 1) adopted its Oct. 28, 2020, minutes; 2) discussed options for collections of transactional level data; 3) adopted the motion to revert the definition of lawsuit for the Home and Auto Market Conduct Annual Statement (MCAS) to the one used in the 2019 data year; and 4) adopted the motion to specify \$50,000 in premiums written as the threshold in the 2021 Disability Income Data Call and Definitions document.

Mr. Flott made a motion, seconded by Mr. Swanson, to adopt the Working Group's Nov. 16, 2020, minutes (*see NAIC Proceedings – Fall 2020, Market Regulation and Consumer Affairs (D) Committee, Attachment Six*). The motion passed unanimously.

2. Heard an Update on the Travel MCAS

Ms. Rebholz noted that the Travel MCAS subject matter expert (SME) group met Jan. 26. She stated that the discussions have been moving forward at a nice pace, but they have been slowed down a bit by discussions related to the appropriate reporting granularity. Breaking the data out by retailer types such as airline, cruise line, websites, etc. was discussed. Discussions will continue during the next Travel SME call, which is scheduled for March 3 at 11:00 a.m. CT.

3. Heard an Update on the Other Health MCAS

Ms. Dzurec stated that last year it was decided to break out two workstreams—one for Short-Term Limited-Duration (STLD) and the second for Other Health. The most recent version of the STLD blank was posted to the MCAS web page in December 2020 for further consideration. A lengthy discussion took place about whether to maintain summary level data in the STLD blank, and that is currently the path being pursued unless different direction is given by the Market Regulation and Consumer Affairs (D) Committee. The next step for the STLD blank is to finalize the definitions and use of terms in the document posted on the MCAS web page. Ms. Dzurec invited others to join the discussion and provide any thoughts or feedback on the document and definitions.

Ms. Ailor asked if the goal is to get the STLD blank finalized and approved this year. Ms. Dzurec confirmed that it was, and she asked that any comments be provided by March 10. She stated that the next SME call for Other Health will be scheduled before the Spring National Meeting, likely in the second or third week of March. Ms. Ailor asked when final comments would need to be approved to be implemented next year. Teresa Cooper (NAIC) stated that approvals by the Working Group are needed by June 1 to be effective in the next data year, so having the information ready for the Working Group to review about one month before that would be best.

4. Discussed a New MCAS Proposal Submission Form

Ms. Rebholz noted that a new MCAS proposal submission form will start being used to eliminate confusion and uncertainty surrounding proposed MCAS updates. The form is posted to the Working Group web page as a fillable Microsoft Word form, along with the instructions for completing the form. It can be found under the Related Documents tab of the web page. Suggestions for the MCAS blanks or data call and definitions can be proposed by completing this form. Ms. Rebholz noted that if there is a current proposal being discussed with anyone, NAIC staff will work with those parties to get the proposal put into the form.

5. Discussed the Reporting of Complaint and Lawsuit Data Elements within the Home and Auto MCAS Reporting Blanks

Ms. Rebholz noted that last year there was discussion regarding the placement of reporting of the complaint and lawsuit data elements within the Home and Auto MCAS reporting blanks, and no changes were made at that time. Attachment Three in the meeting materials is a grid that summarizes the placement of the complaint and lawsuit data elements within each MCAS blank and indicates whether the complaint and lawsuit data is reported at the line of business coverage level. Ms. Rebholz stated that no decisions will be made today, and this will be discussed again in the future. She stated that the focus for this call would be getting feedback on the Home and Auto complaints data, and these data elements are currently reported in the underwriting section as only a total number. The question for the Working Group to think about is if this level of reporting is what state insurance regulators need to perform market analysis or whether they want the complaint data broken out by coverage type. Ms. Rebholz stated that all other lines of business that contain complaint data elements require reporting at the coverage-type level.

Birny Birnbaum (Center for Economic Justice—CEJ) stated that having complaints reported separately for life insurance makes sense because the different coverages represent different products and policies, and for similar reasons, he also believes it makes sense to break out the reporting for Homeowners. He said it might be more difficult for Auto though since there can be multiple coverages within one policy; a company may have difficulty deciding which coverage to report a complaint for on pricing or claim settlement when it might affect a bodily injury claim, property claim, or uninsured motorist claim at the same time. Ms. Rebholz asked call participants to give this agenda item some thought before the next meeting so the Working Group can consider which direction to move in.

Ms. Rebholz stated that the Home and Auto lawsuit data elements are reported by coverage type. Using the current lawsuit definitions for the Home and Auto lines of business, lawsuit information is only collected for claims-related suits. The question for the Working Group to consider is whether state insurance regulators need only claims-related lawsuit data for the Home and Auto lines of business or whether the lawsuit data include suits that are not related to claims.

Peter Kochenburger (University of Connecticut School of Law) stated that he encourages the collection of data for suits not related to claims, as he feels that information would be equally as valuable and important. He stated that there is an increasing ability for anyone who is interested to get access to litigation data for free by going on state dockets for example, so the ability to have a better understanding of what lawsuits are out there and have a better understanding of those lawsuits would be helpful.

Mr. Birnbaum stated that there should be consistency with treatment of lawsuits across the various MCAS lines of business. He stated that the CEJ supports collecting information on all types of lawsuits such as underwriting, pricing and sales, in addition to claims. He stated that on the issue of collecting lawsuit data by coverage, if there are separate products that are clearly distinguishable products like life insurance, then it would make sense to collect it broken out by coverage. However, when separate products are not clearly distinguishable among the coverages like Auto, it would not make sense to ask for reporting lawsuits by coverage.

Lisa Brown (American Property Casualty Insurance Association—APCIA) stated that the lawsuits closed during the period with consideration for the consumer were added for both Home and Private Passenger Auto (PPA) last year, which is consistent across the other lines.

Ms. Rebholz asked the Working Group to give this topic additional thought and to be prepared for further discussion on this matter in the next meeting.

6. Discussed the MCAS Lawsuit Definitions

Ms. Rebholz stated that during the 2020 Fall National Meeting, the Market Regulation and Consumer Affairs (D) Committee approved reverting the 2021 Homeowners and PPA definition of lawsuit back to the definition used in the 2020 Data Call and Definitions. The Committee also approved updating the 2021 definitions of lawsuits closed during the period with consideration for the consumer by replacing the phrase “applicant, policyholder, or beneficiary” with the term “claimant.” Ms. Rebholz noted that the meeting materials include the 2021 data year definitions for lawsuit and lawsuits closed during the period with consideration for the consumer for each of the MCAS lines of business and some additional definitions regarding lawsuits contained in the Disability Income MCAS data call and definitions for comparison. She asked that the Working Group review the materials provided and give thoughts on the definitions and level of granularity needed for lawsuit reporting so that it can be discussed in more detail in the future.

7. Discussed the Addition of Accelerated Underwriting Data Elements to the Life MCAS and Digital Claims Data Elements to the Home and Auto MCAS Lines

Ms. Rebholz stated that last year, the Working Group agreed to move forward with reviewing the proposed definitions and data elements for both accelerated underwriting and digital claims, with the intent to implement reporting on those terms. Discussions on these topics need to be done at a more detailed level, so SME groups will be formed to continue these discussions. Once the SME groups reach consensus, the topics will be brought back to the Working Group for consideration. Ms. Rebholz asked that if anyone would like to be part of the SME groups for either accelerated underwriting or digital claims, they should send an email to Tressa Smith (NAIC) or Ms. Cooper, and they will collect the lists. Leaders for these SME groups will also be needed; anyone with interest should contact Ms. Smith or Ms. Cooper as well.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

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2021 MCAS Complaint and Lawsuit Placement and Granularity of Reporting

	Disability			Homeowner	Lender-Placed		Long-Term	Private	Private
	Annuity	Income	Health		Home & Auto	Life	Care	Flood	Passenger Auto
Complaints Data Elements	X	X		X	X	X	X	X	X
General Data Section	X					X	X		
Claims Data Section									
UW Data Section				X	X				X
Separate Data Section		X						X	
Reported by Coverage	X	X			X	X	X	X	
Lawsuit Data Elements	X	X		X	X	X	X	X	X
General Data Section	X					X			
Claims Data Section				X	X				X
UW Data Section									
Separate Data Section		X					X	X	
Reported by Coverage	X	X		X	X	X	X	X	X

Life and Annuity, Disability Income, Private Flood, Lender Placed Home and Auto, and Long-Term Care

Definitions:

Lawsuit—An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant. For purposes of reporting lawsuits for (MCAS Line of Business) products:

- Include only lawsuits brought by an applicant for insurance, a policyholder or a beneficiary as a plaintiff against the reporting insurer or its agent as a defendant;
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred;
- Do not include arbitrations of any sort;
- If one lawsuit seeks damages under two or more policies or contracts, count the number of policies or contracts involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies or contracts, count the action as three lawsuits;
- If one lawsuit has two or more complainants, report the number of complainants as the number of lawsuits. For example, if one lawsuit has two complainants, report two lawsuits. If the lawsuit is a class action, see instructions for treatment of class action lawsuits;
- Report a lawsuit in the jurisdiction in which the policy **or contract** was issued with the exception of class action lawsuits;
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides.
- Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the applicant, policyholder, or beneficiary in an amount greater than offered by the reporting insurer before the lawsuit was brought.

Additional Disability Income Definitions:

Number of class action lawsuits—(1-13) Reporting entities should put the total class action lawsuits for DI business.

Lawsuits open —(9-84) The number of lawsuits in process that have not been resolved or closed at the beginning of the reporting period (January 1).

New lawsuits—(9-85) The number of new lawsuits filed against the reporting entity at any time during the data year.

Lawsuits closed—(9-86) Include all lawsuits closed at any time during the reporting period, regardless of the manner in which the lawsuit was resolved.

Lawsuits Open at the end of the period—(9-88) Total of lawsuits that remain open or active at the end of the reporting period (December 31).

Homeowner and Auto Definitions:

Lawsuit – A court proceeding to recover a right to a claim, including lawsuits for arbitration cases.

Exclude:

- Subrogation claims where lawsuit is filed by the company against the tortfeasor.
- Non-lawsuit legal activity or litigation filed by an insurer, including, but not limited to: request to compel an independent medical examination, an examination under oath, and declaratory judgment actions filed by an insurer.

Calculation Clarification:

- Lawsuits should be reported on the same basis as claims. One lawsuit should be reported for each / claimant / coverage combination, regardless of the number of actual suits filed.
- One lawsuit with two claimants would be reported as two lawsuits as any awards/payments made would be made to the claimants individually.
- One lawsuit filed seeking damages for multiple coverages should be reported as one lawsuit for each applicable coverage.
- Lawsuits should be reported in the state in which the claim was reported on this statement.
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class member resides. Include an explanatory note with your submission state the number of class action lawsuits included in the data and the general cause of the action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the claimant in an amount greater than offered by the reporting insurer before the lawsuit was brought.