

Draft Pending Adoption

Attachment xxx
 Market Regulation and Consumer Affairs (D) Committee
 12/8/20

Draft: 11/5/20

Market Analysis Procedures (D) Working Group
 Virtual Meeting
 October 22, 2020

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Oct. 22, 2020. The following Working Group members participated: John Haworth, Chair (WA); Sarah Borunda (AZ); Don McKinley (CA); Damion Hughes (CO); Kurt Swan (CT); Scott Woods and Pamela Lovell (FL); Erica Weyhenmeyer (IL); Shannon Lloyd (KS); Russell Hamblen (KY); Nathan Strebeck (LA); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy Schott (ME); Jill Huisken (MI); Paul Hanson (MN); Teresa Kroll (MO); Jeannie Keller (MT); Reva Vandevoorde (NE); Ralph Boeckman (NJ); Peggy Willard-Ross (NV); Larry Wertel (NY); Guy Self (OH); Landon Hubbard (OK); Michael Bailes (SC); Laura Klanian (VA); Isabelle Turpin Keiser (VT); Theresa Miller (WV). Also participating was: Mary Kay Rodriguez (WI).

1. Adopted its Sept. 10 Minutes

Mr. Haworth said the Working Group met Sept. 10 and took the following action: 1) adopted its July 20 minutes; and 2) discussed the most recent Market Conduct Annual Statement (MCAS) filings.

Mr. Hanson made a motion, seconded by Mr. Schott, to adopt the Working Group's Sept. 10 minutes. The motion passed unanimously.

2. Discussed Revisions to the MCAS Best Practices Guide

Mr. Haworth said the *MCAS Best Practices Guide* was originally adopted in 2014. Since that time, additional lines have been added, and some analysis tools have been replaced. He said concerns were also raised about the consistency of how waiver and extension requests are handled, especially for companies that make frequent requests. He said the drafting group for the revisions to the *MCAS Best Practices Guide* met Oct. 20 and continued its work.

3. Discussed the Market Analysis Framework

Mr. Haworth said the NAIC *Market Regulation Handbook* is updated annually. He said it has been some time since the market analysis sections have been updated. The small drafting group is reviewing chapters 6 through 11. He said multiple revisions have been made. The drafting group last met Oct. 15.

4. Discussed MCAS Filings for the Current Filing Period

Mr. Haworth said the Working Group would continue its discussion from the last meeting. He said in Washington, 18–19% of companies had to re-file their Private Passenger Auto MCAS filings. He said the trend was noticed in other lines of business also. He noted that this makes it difficult to do baseline analysis because an analyst does not know if the latest data is being used. He also said he is still receiving waiver requests for the Disability MCAS. He said companies who are not required to file will ask for an extension request first. He said that results in having to have NAIC staff delete the extension request so that a waiver request can be submitted by the company. Ms. Rodriguez said she had four companies submit extension requests even though they did not have to file. She said it takes time to have to have NAIC staff delete the extension requests. Ms. Lovell said she had the same issues. She said she believed it was because Disability MCAS is a new line of business. Ms. Kroll and Ms. Miller also encountered the same issues with Disability MCAS filers. Mr. Haworth suggested that there might need to be additional training, more information included in the data call letter, or outreach to companies.

Lisa Brown (American Property Casualty Insurers Association—APCIA) said first time MCAS filers will tend to be cautious and ask for an extension until they determine whether they must file. She acknowledged that there may be some bad actors that routinely request extensions, but on the newer lines of business, it is most likely confusion.

Birny Birnbaum (Center for Economic Justice—CEJ) suggested asking the NAIC financial reporting staff how often they encounter these same issues when they introduce a new reporting requirement on the financial annual statement (FAS). He said

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if they do not, then the reason may not be confusion so much as a failure to take the MCAS seriously. Ms. Huisken said FAS reporting and MCAS reporting are too different to make that comparison. Companies filing their FAS only work with their domestic state when asking for extensions and waivers. Companies filing MCAS must make their requests to every state that they have to file an MCAS. She suggested putting additional information in the MCAS call letter concerning how to address issues and questions.

Mr. Haworth asked if there is anyone looking at the interrogatories to see about how the COVID-19 crisis may have affected how the company underwrote policies or adjusted claims. Ms. Brown noted that there may not be any comments regarding COVID-19 until next year since the current filing is for the 2019 data year. She suggested using the call letter to ask companies to identify in the interrogatories how COVID-19 has affected their data for the 2020 data year.

Mr. Birnbaum suggested asking companies whether they provided premium relief and whether the relief was accounted as a premium reduction or an underwriting expense.

Tanya V. Sherman (INS Regulatory Insurance Services—INSRIS) asked if there is a way to incorporate company comments in the MCAS Market Analysis Prioritization Tool (MAPT) for baseline analysis. Currently, an analysis must manually retrieve the comments. Tressa Smith (NAIC) said the Tableau dashboard that will replace the MCAS MAPT, and it incorporates the company comments. She said any suggestions for the dashboard can be sent to NAIC market regulation staff.

5. Discussed New Lines of Business for the MCAS

Mr. Haworth said the Market Conduct Annual Statement Blanks (D) Working Group has completed revisions to current line of business blanks, and it is working on the Other Health and Travel MCAS Blanks. He asked if there are suggestions for a new line of business. Mr. Haworth suggested cybersecurity.

Mr. Birnbaum said the commercial multiperil may be a good candidate for the next line of business. He said this encompasses the Business Owners Policy (BOP). He said it is a line that generates \$40 billion in premium and includes millions of policyholders and small businesses. Mr. Haworth said some states have de-regulated commercial lines.

6. Discussed Other Matters

Mr. Haworth said the Market Conduct Annual Statement Blanks (D) Working Group meeting next week will feature a presentation by NAIC Information Technology Group (ITG) staff about the resources available for collecting transactional level data in the MCAS.

Richard L. Bates (State Farm) asked what authority states would use to collect transactional level data in the MCAS. Mr. Haworth said the collection transactional data is already happening on market conduct exams. Mr. Birnbaum said states use their examination authority for the collection of the MCAS, and this would also include transactional level data. He said that is why MCAS data is not considered public. Mr. Bates disagreed. He said there are many procedural and substantive guidelines under the state examination authority when transactional data is collected that would not be present if collected in the MCAS. Mr. Haworth said state insurance regulators need to look at the least intrusive way to collect the data that is needed for analysis, and they need to see if the resources are available. He said he understands that there could be data from third-party administrators (TPAs) that a company may not have. He said, for now, state insurance regulators are doing the discovery they need to do to determine if this is the direction they want to take. Mr. Bates said Mr. Birnbaum's answer is not sufficient. He said there must be some authority that every participating MCAS state is comfortable requiring transactional level data on an annual basis, as opposed to a specific, one-time market conduct examination. Mr. Birnbaum said there is no distinction in the state's examination authority between summary level and transactional level data. If there were, state insurance regulators would have to ask how much summary data is too much whenever they consider new data in the MCAS. Mr. Birnbaum said State Farm has the obligation to show how the examination authority is insufficient.

Ms. Brown said she does not question state insurance regulators' authority to collect transactional level data, but she does question the appropriateness of transactional data for baseline analysis to determine if next steps are necessary with a company. Mr. Hamblen agreed, and he said the MCAS is intended to be a tool for baseline analysis. States clearly have the authority to collect transactional data under their examination authority. Mr. Hamblen said the real question is whether transactional data is helpful and who will store the data.

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Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

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