

COVID-19 Regulatory Relief or Regulatory Accommodations Related to Innovation and Technology

Request for Information – Summary

Introduction:

This document includes the Request for Information sent to interested parties and response tables indicating the comment and which organizations offered a similar or same suggestion. The tables cover the following areas:

- Electronic Commerce
- Regulatory Capabilities
- Claims Facilitation
- Specific to Surplus Lines

While most did not include the specific statutes or statutory language that they recommend eliminating or revising, the ACLI did send a specific recommendation suggesting developing a bulletin or bulletins to address concerns related to existing issues with the state by state implementation of e-signature laws including UETA and existing obstacles to moving e-commerce forward. That information is summarized at the end of this document.

Responses were received from the following organizations:

- American Council of Life Insurers (ACLI)
- American Property Casualty Insurance Association (APCIA)
- BlueCross BlueShield Association (BCBSA)
- Insured Retirement Institute (IRI)
- Lloyd's
- McDermott Will & Emery (mwe)
- National Association of Mutual Insurance Companies (NAMIC)
- National Association of Professional Insurance Agents (PIA)
- Wholesale & Specialty Insurance Association (WSIA)

Original Request:

September 28, 2020

Request to solicit comments from any interested party related to specific “regulatory relief” or “regulatory accommodations” related to innovation and technology

This is an open request for information from the Innovation Technology (EX) Task Force and the Innovation and Technology State Contacts.

The purpose of this request is to solicit comments from interested parties related to specific “regulatory relief” or “regulatory accommodations” offered by states as a result of the COVID-19 pandemic, that it would recommend be continued or made permanent, **related to innovation and technology**. Was there some type of regulatory relief or accommodation offered, or does there continue to be a law, regulation or regulatory guidance or established practice in place, that prohibits or limits insurers or producers from implementing or using newer technologies, data, methods or processes, that is necessary in order to continue to serve customers and maintain operations?

If applicable and possible, please identify the law, regulation or practice that previously or continues to be, an obstacle, impediment or challenge to implementing what was and is necessary as a result of the COVID-19 pandemic and related implications.

This information is requested to help regulators gain an understanding of current and/or prior roadblocks to innovative products and services made possible through technology and data. If responding for multiple companies or a group, please summarize your response.

Response Summary:

Electronic Commerce

Key Points	Responders
e-signatures: if allowed by law, provide certainty it will be accepted. Possibly even accept verbal if verified by e-statements	APCIA, IRI, NAMIC, mwe
e-delivery/e-posting: develop a comprehensive solution for this and be accepted in every state. New Hampshire legislation was provided as an example.	APCIA, IRI
e-notary: during COVID 36 states and the District of Columbia suspended this requirement and some states eliminated it. Proposal is to eliminate in person notary requirements.	APCIA, WSIA, PIA, IRI, NAMIC, Lloyd's, mwe
Common Theme: Implement E-sign and UETA requirements more consistently and uniformly in all jurisdictions.	

Regulatory Capabilities

Key Points	Responders
Education/Continuing Education: Eliminate in person classroom licensing requirements replaced with virtual or online options. <ul style="list-style-type: none"> Implement reciprocity where it does not exist and flexibility with remote fingerprinting should be encouraged. (NAMIC) 	APCIA, WSIA, PIA, IRI, NAMIC
Allow complaints to be sent via email as opposed to postal service.	APCIA
Conduct financial and market conduct examinations remotely/virtually.	APCIA, WSIA
e-filings: eliminate hard copy regulatory filings or eliminate the need for a wet signature or traditional notarization for those filings	APCIA, Lloyd's, WSIA
Allow e-payment for all required regulatory fees such as premium taxes <ul style="list-style-type: none"> Waive late fees for non-electronic payments 	APCIA, Lloyd's, WSIA
Eliminate wet signature requirements for regulatory filings such as biographical affidavits	APCIA, mwe
Conduct workers compensation hearings remotely/virtually	PIA
Implement regulatory relief uniformly through the NAIC	IRI
Implement bulletins that alleviate the need for in-person MGA/TPA audits and allow virtual audits of employers and other similar requirements	NAMIC, mwe
Remove requirements that customer service representatives must work in a physical office with general lines licensees.	WSIA, mwe
Common Theme: Move to allow regulatory requirements to be remote/virtual and allow filings to be digital.	

Claims Facilitation

Key Points	Responders
Allow digital adjudication of claims including photo inspection particularly around auto inspections and allow non-licensed adjusters to be able to the photos	APCIA
Drones: Allow drones in adjusting including relaxing “fly beyond their line of sight” requirements	APCIA
Possibly draft legislation that would resolve concerns over “paper trail” liability related to certified letters for reservation of rights and coverage denials. The letter noted that there is no existing regulatory requirement to do this, but still concerns.	APCIA
Allow remote/virtual administrative hearings to take place as well as video depositions.	APCIA
Consider timing of electronic payments happening “at the same time” – proof of loss must be sent through the mail	APCIA

Telemedicine: Allow this and relax in-person requirements <ul style="list-style-type: none"> BCBSA suggests leveraging their existing “Guiding Principles for Telehealth” and allowing private insurers establish appropriate rules 	APCIA, BCBSA
Common Theme: Move to allow claims processing to be remote/virtual and expand what can be done digitally/electronically.	

Specific to Surplus Lines

Key Points	Responders
Diligent Search: “on demand” product pricing is difficult due to the three declination process in the current environment. Particularly where it must be documented and filed with the state. Should relax and automate this process. <ul style="list-style-type: none"> Eliminate “per policy” diligent search Suggest changing this to a quarterly search (Lloyds) 	WSIA, mwe, Lloyd’s
Similar to the accommodation listed above, suggest extending acceptance of practices that facilitate real-time, live declinations to not be deemed an unfair trade practice or violating existing state laws such as those governing policy cancellations and nonrenewal.	mwe
Expand export lists for coverages typically unavailable in the admitted market.	WSIA, mwe
Common Theme: Make it easier to write coverages “on demand” and not available in the admitted market.	

ACLI Specific Recommendations:

UETA Issues

- Not all states have adopted UETA
- Not all who have adopted it have done so uniformly
- Laws and regulations impose requirements on e-delivery that can conflict
- UETA requires “opt-in” which can be problematic

ACLI Recommendations

- Craft and adopt state bulletin(s) to eliminate existing language that is now outdated and does not accommodate digital or e-commerce/payment.
- ACLI has offered a draft bulletin for consideration
- The draft bulletin includes e-commerce/communication considerations, producer licensing online and onsite examination recommendations.
- Provides and appendix of existing insurance regulations and laws that the bulletin will pertain to.
- Recommends removing “opt in” requirements

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