Market Regulation Certification (D) Working Group
Virtual Meeting
October 27, 2022

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Oct. 27, 2022. The following Working Group members participated: John Haworth, Vice Chair (WA); Jeanne Murray (AK); Crystal Phelps (AR); Erica Weyhenmeyer (IL); Jo LeDuc (MO); Tracy Biehn (NC); Martin Swanson and Robert McCullough (NE); Maureen Belanger and Edwin Pugsley (NH); Erin Porter (NJ); Don Layson (OH); Gary Jones (PA); Glynda Daniels (SC); Kelly Christensen (UT); Julie Fairbanks and Andrea Baytop (VA); Karla Nuissl (VT); Theresa Miller (WV); and Bill Cole (WY).

1. **Adopted its Sept. 15 Minutes**

The Working Group met Sept. 15 and took the following action: 1) reviewed the pilot states’ revisions to the Voluntary Market Regulation Certification Program requirements, guidelines, and checklist; and 2) reviewed the implementation plan for the certification program.

Cole made a motion, seconded by Daniels, to adopt the Working Group’s Sept. 15 minutes (Attachment XX). The motion passed unanimously.

2. **Reviewed the Pilot Program Revisions to the Market Regulation Certification Program**

Haworth said the subgroup for reviewing the pilot suggestions and incorporating changes in the certification requirements met three times since the last Working Group meeting. He said the subgroup has been through the first nine requirements and expects to get through the remaining three requirements during its next meeting.

Haworth said because of the review, the drafting group will make some recommendations to the Working Group for consideration because they change the actual requirement. He said the drafting group will ask the Working Group to expand requirement 7 from just the collection of the Market Conduct Annual Statement (MCAS) to the collection and analysis of MCAS data. The drafting group will also recommend streamlining requirement 8 concerning electronic data submissions to the NAIC to eliminate references to how quickly the data should be submitted. The drafting group believes the timeliness of submissions should be addressed in the measurements and checklists. Additionally, the drafting group will ask the Working Group to address error tolerances for failure to meet the timeliness standards of requirement 8.

Haworth said when the drafting group completes the review of the 12 requirements, it will compare the requirements to the scoring matrix to ensure the two documents are in sync. Superintendent Toal said he was able to participate in some of the meetings, and he thanked the drafting group for the earnestness and intensity with which it is going through the requirements.

LeDuc noted that much of the redline in the current copy of the certification requirements is from restructuring the arrangement of the wording in the requirements, and it affects the actual content.

3. **Reviewed the Market Regulation Certification Implementation Plan**

Haworth said during the Working Group’s last meeting, several revisions to the three-year self-certification period were made, and during this call, the Working Group will consider the implementation plan for the full certification.
program, which will follow the three-year self-certification period. He said the full-certification period implementation plan describes: 1) how and by whom the certifications will be performed; 2) how often a jurisdiction would need to be certified; and 3) how annual assessments will be done. Also, because the certification program is voluntary, the implementation plans allow for jurisdictions to continue to self-certify, but a self-certification would not be considered fully certified.

Haworth said the first bullet point calls for the formation of a Market Regulation Standards and Certification Committee that will oversee the certification process and audits. He asked if the Working Group wants to continue with that plan or be more specific regarding who would be eligible for the audit team; i.e., more specific about who would be eligible to be on the review team. LeDuc said it would be appropriate to have a Standards Committee and a review team. She said the composition of the review team is not needed for the overall implementation plan. She said that could be decided after the adoption.

Haworth said the second bullet point describes the timeline for applications to be fully certified and how a jurisdiction would be fully certified. If a state wishes to be fully certified, it would submit its self-certification audit to the Standard and Certification Committee for review and verification of the information, which could include on-site visits and interviews. This would be done on a five-year cycle. Haworth said this creates a staggered approach, which manages the workload of reviewing and approving certification applications.

Haworth said the third bullet point spells out that only 12 full certification applications will be done per year. The review team would make its recommendations on certification and the five-year re-assessments prior to the Fall National Meeting, and the Standards and Certification Committee would make its decisions by the end of the calendar year. LeDuc noted that the workload for reviewing could quickly add up as each year, in addition to 12 new applications, the annual re-assessments will be 12, then 24, 36, and 48 after four years.

Haworth said the fourth bullet point says in the first five years, all jurisdictions seeking full certification will be provisionally certified by the Market Regulation and Consumer Affairs (D) Committee until their application is reviewed and a decision is made by the Market Regulation Standards and Certification Committee.

Haworth said the fifth bullet point requires an annual assessment to be completed by the certified jurisdiction and submitted to the Standard and Certification Committee two weeks prior to the Summer National Meeting.

Haworth said the sixth bullet point allows any jurisdiction to withdraw from the certification program at any time. He said this is in line with the program being voluntary.

Birny Birnbaum (Center for Economic Justice—CEJ) asked why the program is voluntary. He said if only 10 states are certified and 40 states decided not to try to be certified, the implication would be that those states did not think they could pass, and that would reflect badly on state-based regulation. He said if a state department of insurance (DOI) attempted to pass certification and failed, that could be useful for the DOI, which could use the results in asking the legislature for resources to improve. He said even the financial accreditation program is voluntary, but there is a downside to not being accredited, as other states do not have to accept your financial analysis of your domestics. He said no such incentive exists in market regulation since no state will defer the necessity of market regulation of all entities operating in their jurisdiction.

Haworth said the last bullet point provides possible financial incentives for fully certified jurisdictions, but this would be subject to Executive (EX) Committee approval. He said it involves funding for attendance at national meetings, the Insurance Summit, and other events, but he is not sure.
LeDuc suggested that when the certification program is adopted and ready to go, any jurisdiction that wishes to be fully certified should be provided that option.

Haworth asked for any comments to be sent to Randy Helder (NAIC) by Nov. 18.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.
Voluntary Market Regulation Certification Program
Self-Assessment Guidelines, Checklist Tool and Implementation Plan

Contents

| Requirement 1 – Department’s Authority  | Guidelines and Checklist | 3 |
| Requirement 2 – Department’s Authority Regarding the Market Regulation Handbook | Guidelines and Checklist | 6 |
| Requirement 3 – Department Staffing | Guidelines and Checklist | 8 |
| Requirement 4 – Department Staffing | Guidelines and Checklist | 8 |
| Requirement 5 – Confidentiality and Information-Sharing | Guidelines and Checklist | 13 |
| Requirement 6 – Collaboration with Other Jurisdictions | Guidelines and Checklist | 18 |
| Requirement 7 – Market Conduct Annual Statement | Guidelines and Checklist | 20 |
| Requirement 8 – Electronic Data Entry with the NAIC | Guidelines and Checklist | 25 |
| Requirement 9 – Participation in all NAIC Market Conduct and Market Analysis Working Groups | Guidelines and Checklist | 27 |
| Requirement 10 – Collaborative Action Designee | Guidelines and Checklist | 30 |
| Requirement 11 – Collaboration – National Analysis | Guidelines and Checklist | 32 |
| Requirement 12 – Interdivisional Collaboration | Guidelines and Checklist | 34 |
| Implementation | Guidelines and Checklist | 36 |

Commented [HR1]: MO - General Observations

The document is inconsistent in how it refers to a department. In some areas it is directed at the reader and uses terms such as ‘you’ and ‘your’. Other areas use more generic terms such as ‘the’ department. For consistency, we would suggest replacing the references to ‘you’ and ‘your’ with the more general reference to ‘the’ department. The document is also inconsistent in how it refers to participating jurisdictions, in that the terms state and jurisdiction are used interchangeably. For consistency purposes, we would suggest that the broader term jurisdiction be used throughout the document and all references to a state or states be amended accordingly.

Several of the Checklist Items include generic statements such as ‘Briefly explain’. It would be helpful if these statements could be expanded on and provide more information about what should be explained. It may also be helpful to include the requirement for an explanation directly below the item to be explained, rather than grouping it into a single item at the end of the checklist.

Finally, we noticed little consistency in how each requirement is organized. This makes it more difficult for the reader to interpret and apply. To aid in readability and understanding, we suggest standardizing the structure used for each requirement. Specifically, we recommend that each requirement be organized as follows:
- Requirement: A statement of the requirement(s)
- Objective(s): The objective(s) of the requirement
- Measurement: Information on how the requirement will be measured
- Guidelines: Guidance on how to interpret the requirements
- Checklist: The checklist for jurisdictions completed to assess achievement of the requirement
- Comments: An area for the jurisdiction to provide additional information related to its assessment of the requirement.
Purpose

The mission of the NAIC Market Regulation Certification Program is to establish and maintain minimum standards that promote sound practices relating to the market conduct examination, market analysis and related continuum activity functions performed for insurance consumer protection. Insomuch as the program is anticipated to evolve and improve over time, it is anticipated that additional functions necessary for sound consumer protection may be developed in the future. The certification program is designed to provide an initial process that facilitates each jurisdiction’s ability to conduct self-evaluation. An ultimate goal is to develop measurable and meaningful standards that can be independently evaluated and monitored.

Program standards, assessment checklist items and guidelines should:

- Provide a roadmap regarding resources, abilities and functions for jurisdictions wishing to build, maintain, or improve upon, their market conduct program.
- Promote consistency while respecting individual jurisdictional differences and circumstances by promoting use of NAIC resources.
- Demonstrate accountability and responsiveness to those impacted by the business of insurance, and to others that are charged with evaluating and assessing the effectiveness of state-based insurance regulation.
- Promote an environment of continuous process improvement for enhancing outcomes relating to insurance consumer protection.
- Improve predictability and understanding of processes for regulated entities.
- Enhance jurisdictional coordination and information-sharing.
- Enhance protection of insurance consumers through promotion of sound market conduct processes.

NOTE: When responding to checklist items for each requirement, if your response is N/A (not applicable), please provide an explanation for your “N/A” response in the comments.

Commented [HR2]: MO - We believe that the established shards should be viewed as minimum standards. To achieve this, we recommend amending the first sentence to read “to establish and maintain minimum standards...”

The first bullet point provides that the guidelines should be used as a roadmap for building or improving on a department’s market conduct program. We believe the guidelines would also be useful for maintaining a program. We suggest that the first bullet point be updated to read “…wishing to build, maintain or improve upon,…”. 
Voluntary Market Regulation Certification Guidelines and Checklists

Requirement 1 – Department’s Authority

The jurisdiction or department shall have the statutory authority to conduct market regulation activities, including market analysis; comprehensive and targeted market conduct examinations; the continuum of market regulation actions, including enforcement; and collaboration and coordination with other regulatory agencies. Additionally, the jurisdiction has adopted or is in the process of adopting or has substantially similar statutory authority for key insurance consumer protection laws and regulations as established by the NAIC.

Objective

The objective of this requirement is to x.

Measurement

To evaluate whether your jurisdiction “passes” Requirement 1, the jurisdiction must have the general authority to collect and analyze information and have authority to coordinate with other jurisdictions. If the jurisdiction does not have the authority to coordinate with other jurisdictions, it will not pass this requirement. Additionally, a jurisdiction should have authority to conduct analysis, examinations and enforcement. Requirements to have reasonable cause to conduct an examination does not negatively impact the evaluation. Ability to perform these items without having the ability to perform continuum actions should be considered as “marginally passing but with strong recommendations for additional authority.”

Guidelines

When determining your department’s authority for conducting market regulation activities, several different considerations should be evaluated. Direct legal authority may exist in the jurisdiction’s insurance code or within its regulations. Insurer examination acts, specific market regulation acts, acts that outline the authority and duties of the department are all potential items to review. Generally, such authority is cited when requesting documents from an insurer. Jurisdictions may also have broad oversight authority within other consumer protection laws.

Additional authority may be implied or may exist on a less direct basis. Examples could include insurance consumer protection-related insurance laws or regulations and their associated enforcement provisions. Other potential areas of authority are activities performed pursuant to the powers or orders of the insurance commissioner, director, superintendent or administrator (i.e., the applicable chief insurance regulator of your jurisdiction).

When evaluating checklist items for Requirement 1, it may be beneficial to look beyond the mere capability to perform the listed functions. If not directly addressed within the insurance code or regulations, consider whether direct authority for all mentioned items would be desirable (most continuum items would fall under examination, investigation or analysis categories). Having direct authority may provide valuable guidance on such issues as application of administrative procedure act requirements, status of examination, investigational or analysis records, handling of associated costs, etc.

Consider which consumer protections model laws and regulations have been adopted in your jurisdiction. Investigation, subpoena, and cease and desist powers are found in most unfair trade and producer laws. Most commissioners also have a general powers statute that may contain similar enforcement authorities.
The key basic models or similar versions should include:

- Unfair Trade Practices Act (#880)
- Unfair Claims Settlement Practices Act (#900)
- Health Carrier Grievance Procedure Model Act (#72)
- Uniform Health Carrier External Review Model Act (#76)
- Producer Licensing Model Act (#218)
- Suitability in Annuity Transactions Model Regulation (#275)
- Life Insurance Illustrations Model Regulation (#582)
- Life Insurance and Annuities Replacement Model Regulation (#613)
- Standard Nonforfeiture Law for Life Insurance (#808)
- Standard Nonforfeiture Law for Individual Deferred Annuities (#805)
- Unfair Discrimination Against Subjects of Abuse in Health Benefit Plans Model Act (#895)
- Unfair Discrimination Against Subjects of Abuse in Life Insurance Model Act (#896)
- Unfair Discrimination Against Subjects of Abuse in Disability Income Insurance Model Act (#897)
- Unfair Discrimination Against Subjects of Abuse in Property and Casualty Insurance Model Act (#898)
- Model Law on Examinations or Market Conduct Surveillance Model Law (#693)

Checklist for Requirement 1:

Please provide the statutory reference(s) your jurisdiction or department relies on for the following:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a. Does the department have the general authority to collect and analyze information whenever it is deemed necessary?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reference</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1b. Does the department have the authority to collaborate and coordinate with other regulatory agencies?</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Reference</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1c. Is the department’s authority broad enough to cover market analysis, comprehensive and targeted market conduct examinations and the continuum of market regulation actions, including enforcement?</td>
<td>Y</td>
<td>N</td>
</tr>
</tbody>
</table>

If yes, provide the citation reference(s) in the table below

<table>
<thead>
<tr>
<th>Market analysis</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive and targeted market conduct exams</td>
<td></td>
</tr>
<tr>
<td>Continuum of market regulation actions (including enforcement)</td>
<td></td>
</tr>
</tbody>
</table>

Commented [HR5]: MO - Checklist Item 1b.: For clarity, we suggest that the item be revised to specifically list the activities of interest (i.e. market analysis, comprehensive and targeted market conduct examinations and the continuum of market regulation actions, including enforcement).

Commented [JL6R5]: Resolved

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Attachment B

COMMENTS:

<table>
<thead>
<tr>
<th>Ability to collaborate and coordinate with other regulatory agencies</th>
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</thead>
</table>
Requirement 2 – Department’s Authority Regarding the Market Regulation Handbook

The department shall have sufficient authority by appropriate statute, regulation, rule, or other authority to utilize the most recent version of the Market Regulation Handbook. When a department initiates a market regulation examination, it shall be guided by the version of the Market Regulation Handbook in effect at the time the examination was initiated.

Objective

The objective of this requirement is to promote guidance and consistent handling of examination processes through the use of the Market Regulation Handbook.

Measurement

To evaluate whether your jurisdiction “passes” Requirement 2, the jurisdiction must at a minimum be able to demonstrate when conducting examinations or continuum activities their use of applicable Market Regulation Handbook review standards and related materials to the extent they are consistent with jurisdictional law. The department’s policies and procedures should properly reference the use of those materials set forth in the Market Regulation Handbook or its predecessor/successor. (draft additional language to complete)

Guidelines

When determining your department’s authority by appropriate statute, regulation, rule, or other authority to utilize the most recent version of the Market Regulation Handbook, the department should identify the statute, regulation, rule or other authority to use the Market Regulation Handbook within their response.

When evaluating checklist items for Requirement 2, a jurisdiction should be able to demonstrate, on an individual basis, when it is deemed appropriate to deviate from, or necessary to use an earlier version of, the Market Regulation Handbook. The jurisdiction must also be able to demonstrate that it has followed its own established policies and procedures for adopting processes that deviate from the Market Regulation Handbook.

Checklist for Requirement 2

2a. Does the department have authority by statute, rule or other authority to use the most recent version of the Market Regulation Handbook or its predecessor/successor? YES NO

REFERENCE

2b. When conducting examinations or continuum activities, does the department incorporate applicable Market Regulation Handbook review standards and related materials to the extent they are consistent with state laws? YES NO
2c. Does the department have examination-specific policies and procedures in addition to those guidelines set forth in the *Market Regulation Handbook* or its predecessor/successor? If Yes:

2d. Is the jurisdiction able to demonstrate that it has followed its own established policies and procedures in adopting any process that deviates from the *Market Regulation Handbook*? (The objective of this item is to promote guidance and consistent handling of examination processes within each state on an individual basis when it is deemed appropriate to deviate from the *Market Regulation Handbook*)

COMMENTS:
 Requirement 3 – Department Staffing: Resources

The department must have either, or a combination of:

- Its own staff sufficient to perform market regulation work, including market analysis, examinations and other continuum actions.
- Statutory authority sufficient to engage competent contractors on an as-needed basis and appropriate department staff to oversee and manage such contractors.

Objective

The objective of this requirement is to ensure the department has sufficient staff to meet the needs of the department’s market regulation activities.

Measurement

- Full-time equivalent (FTE)

Guidelines

Requirement 3 provides guidance on whether a jurisdiction has resources and capabilities to conduct market analysis, market conduct examinations and/or continuum activities. The standard recognizes that some jurisdictions use contracted services to perform these functions. In the event that contracted services are used, the standard inquires if the jurisdiction has the authority to hire contractors, established processes for selecting contractors and whether the jurisdiction engages in oversight of the contracted services. It is understood that jurisdictions vary in their usage of examinations versus continuum activities.

This requirement anticipates that some data will be obtained through the Insurance Department Resources Report. Those results should be reviewed in the event that classifications differ. Additionally, it is anticipated that each jurisdiction will evaluate changes in its level of resources from year to year.

To evaluate its own status regarding the checklist for Requirement 3, each jurisdiction determines its specific appropriate level of staffing and use of contracted services. Levels will vary from jurisdiction to jurisdiction. Factors such as population size, premium volume, complexity of insurance issues with a particular jurisdiction, complaints, legal requirements, directives for conducting market conduct activities and ability to keep abreast of emerging market issues are valid factors when evaluating your jurisdiction’s needs. Jurisdictions are encouraged to establish resource levels that permit them to meet their obligations or needs for market analysis, market conduct examinations and/or continuum activities.

During each jurisdiction’s evaluation of its staffing levels, it may also be helpful to determine what NAIC resources are relied upon for market conduct functions and how the use of those resources has changed over time. If additional NAIC resources are identified that may be beneficial, it is a good idea to bring forth those suggestions to NAIC staff. This will help to provide opportunities and diagnostic tools for improvement.

Where independent contractors are used to fulfill staffing needs, the department must be engaged and responsible throughout the examination and be responsive to issues and concerns that might arise.

To evaluate whether your jurisdiction “passes” Requirement 3, the jurisdiction, initially, should be able to respond to one of the following combinations:

- “Yes” to checklist item 3a., item 3d. or 3e., and item 3i.
If the answer to checklist item 3a. is “Yes,” and the department uses contractors to fulfill requirements of checklist item 3d answers “Yes” to item 3.e., then a “Yes” response is required for item 3m., item 3n., item 3o., and item 3p.

All remaining Requirement 3 checklist items should be collected and evaluated from year-to-year to evaluate the jurisdiction’s abilities.

**Checklist for Requirement 3**

* **Sufficient Qualified Staff and Resources (Market Analysis)**

The department should have the resources to analyze effectively on a periodic basis the market behavior of insurers doing business in the state

**General Guidance:** Identified personnel who have the time and experience necessary to perform this function should be assigned to the analysis tasks, and the tasks should be satisfactorily completed in a timely manner.

**Note:** The following tables will be populated from the Insurance Department Resources Report.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

3a. Does the department have analysts on staff or under contract whose responsibility is to conduct market analysis of insurers doing business in the state?

<table>
<thead>
<tr>
<th>Current Year (CY)</th>
<th>CY-1</th>
<th>CY-2</th>
</tr>
</thead>
</table>

3b. If the department utilizes contract analysts, please describe in a separate attachment the manner and extent of utilization in the department’s recent activities.

3c. Indicate below the number of contract and staff analysts, and supervisors for each of the last three years.

<table>
<thead>
<tr>
<th>Market Analysis: In-house Market Analysis</th>
<th>Supervisors: Contract Market Analysts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Year (CY)</td>
<td></td>
</tr>
<tr>
<td>CY-1</td>
<td></td>
</tr>
<tr>
<td>CY-2</td>
<td></td>
</tr>
</tbody>
</table>

Indicate below the number of market analysis reviews for which market analysis was performed in the prior review period. Market analysis means formal review of a company through existing processes (e.g. Level One, Level Two).

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Year (CY)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CY-1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Commented [HR18]: MO - New Checklist Item: To provide clear documentation to support the need to respond to the current checklist item 3b., we recommend adding the following additional item before the current item 3b: Does the department have utilize contract analysts to conduct market analysis of insurers doing business in the jurisdiction? We support prior comments made by California related removing the requirement to report analysis activities broken down by single-state/multistate and L&H/P&C.

Commented [HR19R18]: resolved

Commented [HR20]: MO - Checklist Item 3c: Staff and/or contractor counts should be based on full-time equivalent (FTE) positions to take into account the variations in how departments are organized. For example, in Missouri team members responsible for doing market analysis have responsibilities in addition to market analysis. Reporting the actual number of team members tasked with market analysis would result in an overestimation of the actual resources used to conduct analysis. Reporting on an FTE basis would provide for a more accurate representation of the resources.

Commented [HR19R20]: resolved

Commented [HR21R20]: START HERE

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Sufficient Qualified Staff and Resources (Examinations and/or Continuum Actions)

The department should have resources to effectively examine and/or conduct continuum actions of insurers as deemed appropriate by the department based upon its market analysis or as prescribed by state laws.

(General Guidance: Identified personnel who have the time and experience necessary to perform this function should be assigned to the examination tasks, and the tasks should be satisfactorily completed in a timely manner.)

YES NO

3d. Does the department have a full-time staff of market examiners and/or utilize contract examiners whose responsibility is to examine and/or conduct continuum actions of insurance companies as indicated by the department’s market analysis or as prescribed by state laws?

3d.3e. Does the department utilize contract examiners to examine and/or conduct continuum actions of insurance companies as indicated by the department’s market analysis or as prescribed by state laws?

3e.3f. If the department utilizes contractual examiners, please describe in a separate attachment the manner and extent of utilization in the department’s recent activities.

3f.3g. Indicate below the number of full-time market examiners, including supervisory personnel on the department’s staff and/or the number of individual contract examiners used compared to the last three years. Convert the number of hours to a full-time equivalent employee position. Also list your jurisdiction’s premium volume for any and all examinations or actions written in the most recently completed year.

<table>
<thead>
<tr>
<th>In-House Examiners</th>
<th>Contract Examiners</th>
<th>Total Written Premium Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Year (CY)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CY-1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CY-2</td>
<td></td>
<td></td>
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</tbody>
</table>

3g. As a separate attachment, provide a list of market examiners that includes the following: name, professional designation(s), title, years employed by the department (include functional area), type of college degree, and prior regulatory or insurance experience. Also indicate those market conduct examiners that are contractual and whether each is full-time with the department.

In a separate attachment, please discuss the state’s statutory requirement regarding the trigger for market conduct examinations and/or other continuum-type activities.

3h. Does the department have established goals, policies and procedures, subject to periodic review and updates, for identifying and addressing market conduct issues through the use of ongoing market analysis and market conduct continuum activities, including examinations?

Commented [HR22]: MO - Checklist Item 3g: Department staff should be counted in terms of full-time equivalent (FTE) positions to account for variations in how departments are organized.

Commented [HR23R22]: Make reference to IDRR and consistency with IDRR.

Commented [HR24]: MO - Checklist Item 3h: We agree with California. Detailed information on staff/contractors and their qualifications is not pertinent in the context of determining if the department has sufficient resources.

Commented [HR25R24]: move this to 4

Commented [HR26]: fix numbering

Commented [OP28R27]: I agree with Virginia on this. This item and 3i) are very unclear as to what they mean.
If the answer to item 3i is “Yes,” what quantitative and subjective measurements are available to evaluate whether the department is adhering to its achievement of such goals, policies, and procedures?

Has the department performed any targeted exams or market continuum actions in the prior two years?

If the answer to item 3k is “Yes,” please provide a list of such exams or market continuum actions and the scope of the exams/actions.

If the answer to item 3l is “No,” does the department have the on-staff resources or the ability to contract additional resources to perform targeted exams/actions, if deemed necessary?

Sufficient-Qualified Staff and Resources (Contractor Selection and Oversight)

Does the department have the authority to hire contractors as specialists to perform market regulation and enforcement activities?

If the department has authority to hire contractors, does it have either a statewide or departmental established process it follows for selecting contractors for market regulation purposes? Briefly explain.

Does the department oversee and manage contractors? Briefly explain.

Does the department have the appropriate staff to oversee and manage contractors?

Based on the review of staff resources, please provide an explanation of any significant changes in resources and/or workload over the three-year period covered in the data above.

COMMENTS:
Requirement 4 – Department Staffing: Qualifications

With respect to qualifications, the department:

- Shall ensure market regulation staff and contractors are qualified by establishing qualifications consistent with the standards for experience, education (including designations) and licenses in the Market Regulation Handbook Core Competencies (“Appendix D – Core Competencies – Resources – Staff and Training, Standard 2” and Appendix D – Core Competencies – Resources – Contractor Examiner, Standard 2” or successor documents).
- Should have a policy that encourages professional development for staff involved in market regulation through job-related college courses, professional designation programs or other training programs.
- Should have a policy that encourages the professional development of all staff involved with market regulation through job-related college courses, professional designation programs or other training programs.

Objective

The objective of this requirement is to [x].

Measurement

Guidelines

Note to Evaluators:

- “Unqualified pass” means the requirement has been met with no comment or corrective action contemplated.
- “Provisional pass” means either marginally or not strictly meeting the requirement; however, certification will not be denied. Progress is recommended/expected during successive reviews.
- With the exception of criteria outlined in “unqualified pass,” equivalent substitutions may be considered with appropriate justification.

a. Does the department have a policy or procedure in place on necessary credentials or minimum educational and experience requirements for selecting and hiring staff and contractors?

Unqualified Pass:

- Does the department include in its job announcements/descriptions preference for relevant experience, education and credentials as outlined in item b. below?
- Does the department’s specification in requests for proposals (RFPs) include requirements that contracted personnel (with emphasis on supervisory personnel) have relevant experience, in addition to the following: 1) either a certified insurance examiner (CIE), accredited insurance examiner (AIE), certified life underwriter (CLU), fellow, Life Management Institute (FLMI), chartered property casualty underwriter (CPCU), certified insurance counselor (CIC), fellow, Academy for Healthcare Management (FAHM), professional in insurance regulation (PIR) or chartered healthcare consultant (ChHC) designation; and 2) a market conduct management (MCM) designation?

Provisional Pass:

1 NAIC market conduct examination training may substitute for an MCM designation.

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If collective bargaining or jurisdictional personnel policies prohibit such requirements, the department must show evidence that it has made good faith attempts to include such requirements.

b. Does the department have a staff development program that encourages and supports educational and training pursuits, including training, courses, webinars, and certifications offered by the NAIC?

(1) Staff Examiners/Analysts with More than Five Years of Service in Insurance Regulation

Unqualified Pass (Department Personnel):

- Rate as “unqualified pass” if all examiners and analysts with more than five years of service with the department have: 1) either a juris doctor degree (J.D.), AIE designation or CIE designation; and 2) an MCM designation. These personnel are “presumed qualified.”

Or

- Rate as “unqualified pass” if all examiners and analysts with more than five years of service with the department have: 1) either an AIE designation or CIE designation; and 2) an MCM designation. These personnel are “presumed qualified.”

Or

- Rate as “unqualified pass” if all examiners and analysts with more than five years of service in the position of market conduct analyst or market conduct examiner specialize in a particular line of business have: 1) either a CLU, FLMI, CPCU, CIC, FAHM or ChHC designation; and 2) an MCM designation. These personnel are “presumed qualified.”

Or

- Rate as “unqualified pass” if all examiners and analysts with more than five years of service in the position of market conduct analyst or market conduct examiner specialize in a particular line of business have: 1) a PIR; 2) an associate’s level designation from either The American College of Financial Services, The Institutes, America’s Health Insurance Plans (AHIP) or similar organization (e.g. LOMA or SOFE); and 3) an MCM designation. These personnel are “qualified.”

Employees that have more than 20 years of service with the department or less than five years until retirement are exempt from this requirement.

Provisional Pass (Department Personnel):

If all examiners and analysts with more than five years of service do not have the above qualifications, rate a provisional “pass” if:

- The department has a training policy and or job specifications that require completion and or experience to attain the next highest level in their job classification series.

  - Employees that have greater than 20 years of relevant service with the department or less than five years until retirement are exempt from this requirement

- The department must have a policy that allows voluntary access to NAIC designation programs and the department must show good faith attempts for encouragement and budgetary allowances to provide for voluntary training at other sources of professional education such as the Insurance Regulatory Examiners Society (IRES), The American College of Financial Services, The Institutes or AHIP.
Evidence of good faith activities include, but are not limited to, the following:

- The department adopts procedures to include a statement encouraging professional education.
- The department has made arrangements to be a testing location for organizations such as the Life Office Management Association (LOMA) or The Institutes.
- The department attempts to secure funds for the professional development of market regulation personnel.

(2) Staff Examiners/Analysts with Less than Five Years of Service

**Unqualified Pass:**

- The department has a formal training program whereby new personnel have a clear requirement to attain qualifications outlined below within five years:
  - Either a CIE, AIE, CLU, FLMI, CPCU, CIC, FAHM, PIR or ChHC designation; and an MCM designation.
  - Personnel with a J.D. and five years of regulatory experience are exempt, with the exception they must earn an MCM designation or complete NAIC market conduct examination training.

**Provisional Pass:**

- If collective bargaining prohibits such requirements, the department must show evidence that it has made good faith attempts to include such requirements.

- The department must have a policy that allows voluntary access to NAIC designation programs and the department must show good faith attempts for encouragement and budget allowances to provide for voluntary training at other sources of professional education such as IRES, The American College of Financial Services, The Institutes or AHIP.

Evidence of good faith activities include, but are not limited to, the following:

- The department has made statements encouraging professional education in performance evaluations.
- The department has made arrangements to be a testing location for organizations such as LOMA or the Institutes.
- The department attempts to secure funds in budget proposals for the professional development of market regulation personnel.

---

**Does the Examiner in charge (EIC) possess or is making progress towards completion of noted designations? Does the department determine the composition of members of an examination team?**

**Unqualified Pass:**

- Examiners in charge examining companies will, when possible, possess or be making progress towards completion, as appropriate by line of business: 1) either a CIE, AIE, CLU, FLMI, CPCU, CIC, FAHM, PIR or ChHC designation; and 2) an MCM designation.

**Provisional Pass:**

- Other members of the examination team, when possible, will have appropriate experience, cross-training personnel is an acceptable exception.
4d. Does the department recognize licenses and other highly technical credentials of professionals and experts such as attorneys, actuaries, cybersecurity experts, certified public accountants, IT experts and other professionals and specialists as qualified to perform certain market regulation activities?

Unqualified Pass:

- Did the department retain appropriate contractors with highly technical credentials when appropriate?

Provisional Pass:

- No examinations that required highly technical specialties were conducted during the review period.

c. Does the department have a succession plan in place to ensure maintenance of skills and records?

- Does the department maintain written procedure manuals and cross train employees?

Checklist for Requirement 4

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Commented [HR38]: VA - Guideline c and Checklist 4d should reference “Examiners in Charge” to avoid confusion since some Departments have multiple.
Does the department maintain written procedure manuals to demonstrate a succession plan?

As a separate attachment, provide a list of market analysts/examiners that includes the following: name; professional designation(s); title; years employed by the department (include functional area); type of college degree; and prior regulatory or insurance experience. Also indicate those market conduct analysts/examiners that are contractual and whether each is full-time with the department.

COMMENTS:

Commented [HR39]: re-number into this checklist.

Commented [HR40]: MO - Checklist Item 3h: We agree with California. Detailed information on staff/contractors and their qualifications is not pertinent in the context of determining if the department has sufficient resources.
Requirement 5 – Confidentiality and Information-Sharing

The department shall have the authority and capability to:

- Request, hold and produce examination, investigation and continuum workpapers, on a confidential basis and protect it from subpoena, as permitted by jurisdictional law.
- Maintain confidentiality of confidential information shared by other jurisdictional or federal agencies; and only share confidential information with jurisdictional and federal agencies that agree, in writing, to adequately protect such confidential information.

Objective

The objective of this requirement is XXX.

Measurement

To evaluate whether your jurisdiction “passes” Requirement 5, the jurisdiction must answer “Yes” to checklist item 5a., item 5b., item 5c. and item 5d.

Guidelines

The jurisdiction’s treatment of examination, investigation and continuum workpapers and information shared by or with other jurisdictions has a significant impact on the various jurisdictions’ ability to communicate and collaborate on confidential matters. The provisions within each jurisdicton’s laws, regulations or case law may vary regarding the extent to which workpapers are confidential or to timing which such information becomes a public document. Some laws may extend beyond workpapers and apply to examination reports, as well. Research and documentation of the applicable jurisdiction’s confidentiality provisions should provide clear guidance for individuals within the market regulation division. Checklist item 5a. does not anticipate a uniform confidentiality framework among jurisdictions, but rather is viewed as a necessity to adequately fulfill the requirements of checklist item 5c.

Entering into the Multi-State Information-Sharing Agreement with other jurisdictions and the NAIC is also a necessary part of being able to adequately maintain confidentiality of information shared by other jurisdictions.

To evaluate whether your jurisdiction “passes” Requirement 5, the jurisdiction must answer “Yes” to checklist item 5a., item 5b., and item 5c. and item 5d.

Information-sharing agreements with international jurisdictions may be handled either on a case-by-case basis or by way of properly executed memorandums of mutual understanding.

Checklist for Requirement 5

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<tr>
<td>5a. Does the jurisdiction have laws, regulations or case law that specify how the confidentiality of market conduct examination workpapers is to be handled?</td>
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REFERENCE
5b. Has the jurisdiction entered into the Multi-State Information-Sharing Agreement with other jurisdictions and the NAIC and does the department have written policies/procedures and communicate such policies/procedures to staff?

5c. Does the jurisdiction have written policies and procedures and has communicated such policies and procedures to employees relating to the protection of confidential information which includes PII and PHI, handling of public records requests and requirements for confidentiality agreements when it becomes necessary to share confidential information with other federal and international regulatory or law enforcement agencies, not otherwise covered by the multi-state agreement?

5d. Does the jurisdiction have a records retention schedule which outlines plans for secure storage and timeline for destruction of work papers?

COMMENTS:
**Requirement 6 – Collaboration with Other Jurisdictions**

The department participates in collaborative actions with other jurisdictions.

The department follows the referral or reporting procedures outlined in the Market Actions (D) Working Group Policies and Procedures for any material action that has a potential for collaborative action. In order to determine if a referral or reporting to Market Actions (D) Working Group is necessary, the department will notify all other Collaborative Action Designees (CADs) via meeting, bulletin board, or other method, of proposed activities that have the potential for collaboration.

In addition, the Market Analysis Chief (MAC), MAWG member, CAD and/or CAD alternate shall actively monitor the Market Regulation and Market Analysis Bulletin Boards.

The department will consider joining called Market Actions (D) Working Group collaborative actions relevant to its jurisdiction and provide a response indicating whether or not it will join the collaborative action.

**Collaboration – National Analysis**

Formerly Req. 11  The department participates* in the review of national analysis data annually and participates on one national analysis team at least every other year.

(*Participation means either performing analysis on one of the selected companies or participating in the selection process. Please note if none of the selected companies wrote business in your jurisdiction. It should be noted that the national analysis process has changed in the past. Therefore it is understood that in the future it may be necessary to revisit what it means to “participate.”)

**Objective**

The objective of this requirement is to encourage collaboration with other jurisdictions to help to keep market regulation more effective and efficient by preventing duplication of effort. Sharing of key information among jurisdictions helps to identify marketplace issues as they arise. By encouraging a multi-jurisdictional response to issues when practical, jurisdictions can more effectively direct their resources.

**Measurement**

To evaluate whether your jurisdiction “passes” Requirement 6, the jurisdiction must answer “Yes” to checklist item 6a., item 6b., item 6c., item 6e. and item 6f., unless there is an applicable explanation briefly explained in applicable checklist item 6d. or item 6g. (Need to incorporate Req 11 measurements)

**Guidelines**

Collaboration with other jurisdictions helps to keep market regulation more effective and efficient by preventing duplication of effort. Sharing of key information among jurisdictions helps to identify marketplace issues as they arise. By encouraging a multi-jurisdictional response to issues when practical, jurisdictions can more effectively direct their resources.

The first portion of Requirement 6 relates to participation in the Market Analysis Actions (D) Working Group and is followed by checklist item 6a., item 6b., item 6c. and item 6d. The second portion of Requirement 6 relates to how the jurisdiction joins or considers joining Market Actions (D) Working Group actions and is followed by checklist item 6e., item 6f. and item 6g.
Draft: 10/14/19


For regulators to fully adhere with Requirement 6, especially as it relates to handling of referrals, it is important to become familiar with both the Market Regulation Handbook, Chapter 6—Collaborative Actions, and the Market Actions (D) Working Group Policies and Procedures.

**Actively monitoring includes responding to posts or responding directly to the sender of a posting.**

Examples of actively monitoring the bulletin boards could include regularly:
- Responding substantively to a bulletin board post
- Reaching out directly to the poster
- Communicating with other divisions within the department
- Raising the issue to the Chief Market Regulator Forum (CMRF)

To evaluate whether your jurisdiction “passes” Requirement 6, the jurisdiction must answer “Yes” to checklist item 6a., item 6b., item 6c., item 6e. and item 6f., unless there is an applicable explanation briefly explained in applicable checklist item 6d. or item 6g.

Examples of reasonable explanations for checklist item 6d. and item 6g. may include, but are not limited to, such justifications as:
- The issue has minimal or no consumer impact.
- The issue is not yet sufficiently defined, investigated or analyzed.
- There are no known laws or regulations to address the issue.
- There are reasons why expediency to address the matter in the jurisdiction is of utmost concern.
- Significant differences in the jurisdictions particular insurance laws or regulations.
- An executive decision made at the commissioner or general counsel level.

**Collaboration – National Analysis**

The department participates* in the review of national analysis data annually and participates on one national analysis team at least every other year.

(*Participation means either performing analysis on one of the selected companies or participating in the selection process. Please note if none of the selected companies wrote business in your jurisdiction. It should be noted that the national analysis process has changed in the past. Therefore it is understood that in the future it may be necessary to revisit what it means to “participate.”)

**Objective**

The objective of this requirement is to promote collaboration and the sharing of perspectives and approaches to analyzing data among the jurisdictions.

**Measurement**

**Guidelines**
[CA- Ms. O’Connell recommended modifying the requirement 11 guidelines and the criteria for what passes this requirement to mirror the current national analysis program process with the recognition that the process could change in the future, in which case the guidelines will be reevaluated and modified. She said the current structure of the national analysis program calls for: 1) a lead state for each line of business that is responsible for the selection process; 2) individual jurisdictions to perform analysis on selected companies; and 3) a summarizing jurisdiction responsible for compiling the results of all individual state analysis for a single company. She said a state currently gets no credit under the certification program for acting as a summarizing jurisdiction. She said the limited number of lead state spots per year will not allow all 56 jurisdictions to have the opportunity be a lead state every other year as needed to pass the requirement. She recommended restructuring the requirement, guidelines and checklist to allow a state to pass the requirement if it reviews national analysis data on an annual basis and on an every other year basis either acts as a lead state responsible for the selection process or acts as a summarizing jurisdiction.]

National analysis involves multiple jurisdictions conducting detailed analysis on companies that are shown as outliers. The approach to detailed analysis may differ among jurisdictions; therefore, participation encourages the sharing of ways to analyze data. The national analysis process is an evolving one that uses NAIC staff to provide information to the states. The states that participate in national analysis ultimately decide what to do with companies subject to their national analysis. Their results and recommendations are presented to the Market Actions Working Group.

When evaluating checklist items for Requirement 11, it is important to remember that participation means either performing analysis on one of the selected companies or participating in the selection process.

Additionally, it is important to know that the Market Action (D) Working Group’s annual national analysis process uses the Market Conduct Annual Statement (MCAS) and other existing data to identify companies of national (or multi-jurisdictional) interest that exhibit potential market conduct issues. The process includes the review of the following lines of business: 1) private passenger automobile; 2) homeowners; 3) individual life; 4) individual annuity; 5) group accident and health; and 6) individual accident and health. The lines of business are generally segregated into property/casualty; life and annuity; and health teams. The goal is to find and address issues common across jurisdictions, while reducing the strain on single jurisdictional resources.

The Market Actions (D) Working Group selects a team lead for each of the teams to facilitate the selection of a minimum of five companies for each of the six lines of business. Market Actions (D) Working Group volunteers can be chosen to work with the leaders to identify the companies that will require more in-depth analysis.

Overall, jurisdictions should work together to test the results of the market analysis process against their findings to refine the process. By doing this, the jurisdictions can develop a more efficient market analysis process that will provide more useful information about companies’ market activities. By working together in this manner, jurisdictions will achieve the goal referenced above.

To evaluate whether your jurisdiction “passes” Requirement 11, the jurisdiction must answer “Yes” to checklist item 11a. and item 11c., in addition to providing a name of the individual (or individuals) who participate in the annual national analysis project and who participate on a national analysis team at least every other year. Please note that participation on a selection team qualifies as participating in the national analysis process for the year that the jurisdiction is on a selection team.

**Drafting Note:** Assumes at least one company to be reviewed is licensed or conducting business in your jurisdiction.

**Checklist for Requirement 6**

**YES**

**NO**
### Checklist Item 6a.

Does the department have procedures for staff to follow when reporting potential collaborative actions to the department’s CAD, consistent with those in the Market Regulation Handbook and the Market Actions (D) Working Group Policies and Procedures?

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### Checklist Item 6b.

If the department identified a potential collaborative action, did the department notify all CADs—via meeting, bulletin board or other communication—of the activities identified that may have the potential for collaboration?

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### Checklist Item 6c.

If the department received a positive response to its inquiries to other CADs regarding a potential collaborative action, did the department refer the action to Market Actions (D) Working Group using the reporting procedures outlined in the Market Actions (D) Working Group Policies and Procedures, including completing the Request for Review form and submitting the form to the designated NAIC support staff?

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### Checklist Item 6d.

If the response to item 6a., item 6b., or item 6c. or item 6d. is “No,” please provide a brief explanation.

Examples of reasonable explanations:
- The issue has minimal/no consumer impact.
- The issue is not yet sufficiently defined, investigated, or analyzed.
- There are no known laws/regulations to address the issue.
- There are reasons why expediency to address the matter in the jurisdiction is of utmost concern.
- Significant differences in the jurisdiction’s insurance laws/regulations.
- The matter has been previously addressed in a satisfactory manner by the jurisdiction.
- An executive decision made at the Commissioner/General Counsel level.

### Checklist Item 6e.

Does the department have written procedures for reviewing and evaluating its participation in potential collaborative actions brought to its attention, either through the Market Actions (D) Working Group or by another department?

### Checklist Item 6f.

If the department declined to participate for any collaborative action for which the department declined participation in a collaborative action, has the department provided a response to the Market Actions (D) Working Group regarding its decision?

### Checklist Item 6g.

If the response to item 6e. or item 6f. is “No,” please provide a brief explanation.

6h. Does the MAC, Market Actions (D) Working Group member, CAD and/or CAD alternate actively monitor the bulletin board discussions?

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11a. Does your state participate in the review of national analysis data on an annual basis?

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11b. Who in the department, by functional title, participates in the annual national analysis project?

11c. Does your state participate in one national analysis team at least every other year?

11d. Who in the department, by functional title, participates on a national analysis team at least every other year?

Complete the following if this is an Interim Annual Review:

Have there been any changes to your requirements since last year’s review? If “Yes,” please provide an explanation

YES  NO

COMMENTS:

Commented [HR54]: VA - Should there be a checklist item specific to note if none of the selected companies wrote business in the department’s jurisdiction if the answer was NO to 11a and/or 11c?

Commented [HR55]: This question needs to be added to all the requirements.
Requirement 7 – Market Conduct Annual Statement

The department participates in the centralized collection of the Market Conduct Annual Statement (MCAS).

Objective

The objective of this requirement is to encourage utilization of the centralized collection of the MCAS to enhance each jurisdiction’s market analysis process. By using the data collected in the MCAS process, departments are able to reduce expenses and resources that would have to be used if data was requested and companies had to submit data to multiple jurisdictions.

Measurement

Guidelines

The objective of utilizing the centralized collection of the MCAS is to enhance each jurisdiction’s market analysis process. By using the data collected in the MCAS process, departments are able to reduce expenses and resources that would have to be used if data was requested and companies had to submit data to multiple jurisdictions.

In order to successfully meet this requirement, jurisdictions must be able to verify that they utilize the data obtained from MCAS for market analysis. This verification can be accomplished by producing evidence of completed baseline analysis and Level 1s which pull data from MCAS. Documentation of completed analysis will ensure usage of the MCAS data.

Departments can provide written procedures that show that the use of MCAS data is a part of their market analysis process and assists in making decisions as to the next step in their regulation process.

The objective of participating in the centralized collection of the MCAS is to enhance each jurisdictions market analysis via a consistent process that has been vetted and agreed upon by the various jurisdictions. Use of a standardized system also reduces expense and resources that would otherwise be needed if multiple jurisdictions requested such data in a variety of formats.

When evaluating checklist item 7a., item 7b. and item 7c., a “Yes” answer may be assumed if your jurisdiction signs on to the annual data request that is sent annually by the NAIC. To answer “Yes” to checklist item 7d., a jurisdiction must review the resulting market analysis reports prepared by the NAIC for purposes of market analysis. To evaluate whether your jurisdiction “passes” Requirement 7, a “Yes” answer must be made for checklist item 7a., item 7b., item 7c. and item 7d.

In the event your jurisdiction participates, but does not require each line of insurance that is part of the MCAS program, consider a one-year “grace period” for newly adopted lines of insurance as being acceptable for a “pass.” Additionally, intention to perform analysis for newly adopted lines that have not yet been reported is acceptable for a “Yes.”

In the event a jurisdiction conducts its own individualized MCAS program, consider that scenario as marginally passing with a strong recommendation to participate in the standardized NAIC program.

Commented [HR56]: CA - Requirement 7

The Guidelines paragraphs for Requirement 7, with the most recent 10-14-19 revision, now focus on use of MCAS data (which can be demonstrated through a variety of analysis tasks) instead of centralized collecting of the MCAS data. Should the language of the Requirement 7 be revised to reflect this? The Requirement currently reads, “The department participates in the centralized collection of the Market Conduct Annual Statement (MCAS).”

Commented [HR57R56]: MAKE RECOMMENDATION TO WG TO UTILIZE THE DATA IN MARKET ANALYSIS

Commented [H58]: If the NAIC does not update the Level 1 in MARS to accommodate the various MCAS lines, how does a Department meet this requirement?
### Checklist for Requirement 7

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<tr>
<td>7a. Does the department require eligible companies to file the MCAS with the NAIC?</td>
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<td>7b. Does the department require that the MCAS be prepared in accordance with the NAIC MCAS user guides and instructions?</td>
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<td>7c. Does the department require such companies to file the MCAS in an electronic format acceptable to the NAIC?</td>
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<td>7d. Does the department utilize the data obtained from the MCAS for market analysis? (Examples of utilization include, but are not limited to, such activities as performing baseline or Level 1 analysis.)</td>
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Complete the following if this is an Interim Annual Review:

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<td>Have there been any changes to your requirements since last year’s review? If “Yes,” please provide an explanation</td>
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**COMMENTS:**

**Commented [HR59]:** MO - Checklist Items 7a., 7b. and 7c. We believe that for a department to be able to say that it participates in the centralized collection of the Market Conduct Annual Statement (MCAS) they must meet all three of these items. Therefore it does not seem necessary to break the items into three. We recommend amending item 7a to reflect this and deleting items 7b. and 7c.

If the purpose of the separating the items into three steps is to allow states not participating in MCAS to achieve a ‘marginal pass’ the independent collection and utilization similar data in their market analysis process, a requirement a checklist items specific to that activity should be added to the checklist as an independent item.

**Commented [HR60]:** consider the expectations of amount of MCAS data utilized in analysis.

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Requirement 8 – Electronic Data Entry with the NAIC

The department enters data no less frequently than on a quarterly basis (but preferably monthly) to all NAIC systems, including, but not limited to, the Complaint Database System (CDS) and the Regulatory Information Retrieval System (RIRS). Except for immediate concerns as defined in the Market Regulation Handbook, the department enters data into the Market Actions Tracking System (MATS) concerning upcoming examinations at least 45 days prior to the start of an examination or at least 60 days prior to the start of the on-site examination. Additionally, the department enters continuum actions into MATS when initiating the action.

Objective

The goal of this requirement is to ensure that regulators in other jurisdictions are completely and timely informed of market conduct actions that have occurred, are ongoing, or that are anticipated. Any back-end system that auto-populates the referenced NAIC systems will meet this requirement. If a jurisdiction is using a back-end system which does not currently auto-populate the referenced NAIC systems, that jurisdiction must ensure that the information is entered into the NAIC systems. This may require dual entry until such time as the back-end system auto-populates the NAIC systems.

Notes to Requirement Measurement

- The Market Information Systems Research and Development (D) Working Group report on reporting timeliness, accuracy and completeness will be attached.
- To evaluate whether your jurisdiction “passes” Requirement 8, the jurisdiction must answer “Yes” to checklist item 8a. and item 8b., unless there is an applicable explanation, briefly explained, in applicable checklist item 8e. With respect to checklist item 8c., further clarification of what continuum items must be entered will be forthcoming; however, any item resulting in a formal order must be entered into RIRS. Source documents should be reviewed in order to ensure timeliness. Only entries after the certification program is adopted should be measured.

Guidelines

Significant Market Actions:

The Market Regulation Handbook provides guidance on continuum actions in Chapter 2 and is further explained in Chapter 11 of the 2019 edition as “The continuum of market actions includes such initiatives as office-based information gathering, interview with the company, correspondence, policy and procedure reviews, interrogatories, desk audits, on-site audits, investigations, enforcement actions, company self-audits and voluntary compliance programs.” Such significant actions should be reported in MATS as determined by the department.
If checklist item 8d is answered “Yes,” ensure each examination is called 60 days prior to the start of the examination unless there is reason (noted in item 8f of “immediate concerns” as set forth in Chapter 12 of the Market Regulation Handbook). Examples of immediate concerns include, but are not limited to:

- Fraud allegations.
- Imminent consumer harm.
- Blatant disregard of a department order.
- Imminent solvency concern.

Only entries after the certification program is adopted should be measured. De minimis variations (i.e., less than five business days) should be given a “provisional pass.”

To evaluate whether your jurisdiction “passes” Requirement 8, the jurisdiction must answer “Yes” to checklist item 8a and item 8b, unless there is an applicable explanation, briefly explained, in applicable checklist item 8f. With respect to checklist item 8c, further clarification of what continuum items must be entered will be forthcoming; however, any item resulting in a formal order must be entered into RIRS. Source documents should be reviewed in order to ensure timeliness. Only entries after the certification program is adopted should be measured.

Acceptable explanations for checklist item 8a and item 8b in item 8f include:

- Delayed reporting due to implementation of a new back-office system.
- Technical issues with the NAIC database.

Either “Yes” or “No” in checklist item 8d is acceptable.

If checklist item 8d is answered “Yes,” ensure each examination is called 60 days prior to the start of the on-site examination unless there is reason (noted in item 8f of “immediate concerns” as set forth in Chapter 12 of the Market Regulation Handbook). Examples of immediate concerns include, but are not limited to:

- Fraud allegations.
- Imminent consumer harm.
- Blatant disregard of a department order.
- Imminent solvency concern.

Only entries after the certification program is adopted should be measured. De minimis variations (i.e., less than five business days) should be given a “provisional pass.”

### Checklist for Requirement 8

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<td><strong>YES</strong></td>
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<tr>
<td>8a. Does the department enter or transmit data at least quarterly into the CDS?</td>
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<td>8b. Does the department enter or transmit data at least quarterly into RIRS?</td>
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<td>8c. Did the department initiate an examination of a regulated entity during the most current certification period?</td>
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Commented [HR62]: MO - We recommend clarifying that the requirement to enter continuum actions into MATS when the action is initiated applies to only non-examination actions. We support Maryland’s prior comments related to establishing and error tolerance ratio and a more clearly defined timeframe in which non-examination actions must be entered.

The Guidelines reference an explicit version and sections of the Market Regulation Handbook. We suggest that the guidelines be re-worded in such a way that the document does not need to be updated each time the Handbook is updated.

Commented [H(63R62]: If a Continuum moves into an Exam, is the Continuum closed and an Exam called in MATS? Maryland supports closing the Continuum in MATS and calling an exam in MATS.

Commented [JL64R62]: In MO, yes we close the continuum action in MATS and call an exam in MATS.
8d. Did the department enter If the answer to item 8d. is “Yes,” was the at least 75% of examination materials entered into MATS at least 45 days before the start of the examination or at least 60 days before the start of the on-site examination as set forth in the Market Regulation Handbook? (Note: The start of the examination is the date the department began work on the examination materials received from the examined entity.)

8e. If the answer to item 8a., item 8b., item 8c., or item 8d. is “No,” please provide an explanation.

Complete the following if this is an Interim Annual Review:

Have there been any changes to your requirements since last year’s review?  
If “Yes,” please provide an explanation

**Comments:**

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Requirement 9 – Participation in all NAIC Market Conduct and Market Analysis Working Groups

The department participates in or monitors NAIC market conduct and market analysis-related working groups as a member or interested regulator.

Objective

The objective of this requirement is to make sure jurisdictions are fully aware of market conduct and market analysis initiatives, staying abreast of what is happening in other jurisdictions, assisting in keeping other jurisdictions of what is happening in other jurisdictions and promoting collaboration amongst jurisdictions.

Measurement

To evaluate whether your jurisdiction “passes” Requirement 9, the jurisdiction must, at a minimum, be able to answer “Yes” to checklist item 9a. and item 9b., as well as document who in the department or jurisdiction participates in or monitors the Market Analysis Procedures (D) Working Group and the Market Conduct Examination Guidelines (D) Working Group. In the absence of the ability to participate in every applicable meeting or conference call, it is anticipated that a passing jurisdiction will monitor the applicable working group activities through a review of available materials, minutes and regulator materials.

Guidelines

The objective of participating in or monitoring all NAIC market conduct and market analysis-related working groups as a member or interested regulator is to make sure jurisdictions are fully aware of market conduct and market analysis initiatives, assist in keeping abreast of what is happening in other jurisdictions and promote collaboration amongst jurisdictions.

NAIC market conduct and market analysis-related working groups provide a national forum for jurisdictions to share and coordinate efforts.

When evaluating checklist items for Requirement 9, it is important to remember participation in teleconferences are tracked through registration and attendance of conference calls through the NAIC’s conference call vendor, as well as the roll call for registrants who are members of the different working groups and task forces.

To evaluate whether your jurisdiction “passes” Requirement 9, the jurisdiction must, at a minimum, be able to answer “Yes” to checklist item 9a. and item 9b., as well as document who in the department or jurisdiction participates in or monitors the Market Analysis Procedures (D) Working Group and the Market Conduct Examination Guidelines (D) Working Group. In the absence of the ability to participate in every applicable meeting or conference call, it is anticipated that a passing jurisdiction will monitor the applicable working group activities through a review of available materials, minutes and regulator materials.

Draft: 10/14/19
guideline: to eliminate this conflict by either making participation in or monitoring of these other groups mandatory or discussing them in the guideline as something the jurisdiction should consider being a best practice.

At each jurisdiction’s discretion, consideration may be given to monitoring the Market Information Systems (D) Task Force and applicable working groups, and task forces reporting to the Market Regulation and Consumer Affairs (D) Committee and other working groups, task forces and Committee relevant to consumer issues and market regulation.

**Checklist for Requirement 9**

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>9a. Does the department participate in or monitor the Market Analysis Procedures (D) Working Group as a working group member or interested regulator either by conference calls or by attending meetings?</td>
<td></td>
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</tr>
<tr>
<td>9b. Does the department participate in or monitor the Market Conduct Examination Standards/Guidelines (D) Working Group as a working group member or interested regulator either by conference calls or by attending meetings?</td>
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</tr>
<tr>
<td>9c. Who in the department, by functional title, participates in or monitors the Market Analysis Procedures (D) Working Group?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9d. Who in the department, by functional title, participates in or monitors the Market Conduct Examination Standards/Guidelines (D) Working Group?</td>
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<td></td>
</tr>
<tr>
<td>9e. List any other market conduct or market analysis-related working groups and/or task forces that your department participates in or monitors.</td>
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</table>

**COMMENTS:**

Commented [JL70]: Resolved

Commented [HR71]: CA - Requirement 9

The scoring matrix does not identify any of the Checklist items for Requirement 9 as being mandatory. However, the narrative Guidelines say, “To evaluate whether your jurisdiction ‘passes’ Requirement 9, the jurisdiction must, at a minimum, be able to answer ‘Yes’ to questions 9.a. and 9.b.” The working group should align the scoring matrix and the Guidelines.

I would also ask that the working group reconsider previous comments I made about the Guidelines stating that the jurisdiction must also be able to accurately document a listing of other market conduct and market analysis working groups and/or task forces it participates in or monitors. If a jurisdiction is to be judged in part upon participation in other groups, those should be specified. If participation on other market regulation groups isn’t mandatory but is instead “nice to have”, the Guidelines should be rewritten so that it does not state this is mandatory.
Requirement 10 – Collaborative Action Designee

The department appoints a collaborative action designee (CAD). The department’s Market Actions (D) Working Group member, CAD and/or CAD alternate attends at least 50% of the discussions, either telephonically or in person, of the Market Actions (D) Working Group meetings they are eligible to attend every year.

Objective

The objective of this requirement is to promote collaboration with other CADs, as well as communication with other jurisdictions’ insurance departments via the NAIC Market Regulation and Market Analysis electronic forums (bulletin boards).

Measurement

To evaluate whether a jurisdiction “passes” Requirement 10, the jurisdiction must answer “Yes” to checklist item 10a., item 10b, 10c and 10d.

Guidelines

The objective of the department appointing a CAD is to promote collaboration with other CADs, as well as communication with other jurisdictions’ insurance departments via the NAIC Market Regulation and Market Analysis electronic forums (bulletin boards).

When evaluating checklist items for Requirement 10, it is important to remember that the CAD is the one contact identified by the insurance director/commissioner/superintendent of each jurisdiction to have full responsibility for all communications related to collaborative efforts, including, but not limited to, multi-jurisdictional issues. This includes participating, or assigning a designee to participate in, certain meetings or conference calls of the Market Actions (D) Working Group. While the market analysis chief (MAC) oversees the internal jurisdictional process of identifying entities with potential market regulatory issues, the CAD oversees the process of communicating about those entities and collaborating with other CADs, potentially through the Market Actions (D) Working Group.

The CAD is the person identified with authority to receive information regarding collaborative actions from the Market Actions (D) Working Group. Additionally, the department’s Market Actions (D) Working Group member, CAD or CAD alternate must attend at least 50% of the discussions, either telephonically or in person, of the Market Actions (D) Working Group meetings they are eligible to attend every year.

Add paragraph re: subscribing to the bulletin boards and actively monitoring.

To evaluate whether your jurisdiction “passes” Requirement 10, the jurisdiction must answer “Yes” to checklist item 10a., item 10b., and item 10c. and 10d.

Checklist for Requirement 10

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>10a. Has the department appointed a CAD?</td>
<td></td>
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<tr>
<td>10b. Has the department appointed a CAD alternate?</td>
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**Draft: 10/14/19**

*Implementation Plan adopted Market Regulation and Consumer Affairs (D) Committee – Nov. 30, 2016 *
*Implementation Plan adopted by the Market Regulation Certification (D) Working Group – Nov. 3, 2016 *
*Guidelines and Checklist adopted by the Market Regulation and Consumer Affairs (D) Committee – Aug. 27, 2016 *

Does the CAD and/or CAD alternate attend at least 50% of all meetings and conference calls of the Market Actions (D) Working Group they are eligible to attend?

10d. Does the Market Actions (D) Working Group member, CAD and/or CAD alternate actively monitor the bulletin board discussions?

COMMENTS:

**Formatted Table**

Commented [HR75]: MO - Checklist Item 10d.: We also support Maryland’s prior suggestion that ‘actively monitor’ be more clearly defined and that the CAD/alternate be allowed to designate others individuals to monitor the discussions.

**Formatted: Indent: Left: 0.25”, Hanging: 0.38”**
Requirement 11 – Collaboration – National Analysis

The department participates* in the review of national analysis data annually and participates on one national analysis team at least every other year.

(*Participation means either performing analysis on one of the selected companies or participating in the selection process. Please note if none of the selected companies wrote business in your jurisdiction. It should be noted that the national analysis process has changed in the past. Therefore it is understood that in the future it may be necessary to revisit what it means to participate.)

Objective

The objective of this requirement is to promote collaboration and the sharing of perspectives and approaches to analyzing data among the jurisdictions.

Measurement

Guidelines

[CA- Ms. O'Connell recommended modifying the requirement 11 guidelines and the criteria for what passes this requirement to mirror the current national analysis program process with the recognition that the process could change in the future, in which case the guidelines will be reevaluated and modified. She said the current structure of the national analysis program calls for: 1) a lead state for each line of business that is responsible for the selection process; 2) individual jurisdictions to perform analysis on selected companies; and 3) a summarizing jurisdiction responsible for compiling the results of all individual state analysis for a single company. She said a state currently gets no credit under the certification program for acting as a summarizing jurisdiction. She said the limited number of lead state spots per year will not allow all 56 jurisdictions to have the opportunity to be a lead state every other year as needed to pass the requirement. She recommended restructuring the requirement guidelines and checklist to allow a state to pass the requirement if it reviews national analysis data on an annual basis and on an every other year basis either acts as a lead state responsible for the selection process or acts as a summarizing jurisdiction.]

The objective of participating in the review of national analysis data annually and participates on one national analysis team at least every other year is to promote collaboration and the sharing of perspectives and approaches to analyzing data among the jurisdictions. This involves multiple jurisdictions conducting detailed analysis on companies that are shown as outliers. The approach to detailed analysis may differ among jurisdictions; therefore, participation encourages the sharing of ways to analyze data. The national analysis process is an evolving one that uses NAIC staff to provide information to the states. The states that participate in national analysis ultimately decide what to do with companies subject to their national analysis. Their results and recommendations are presented to the Market Actions Working Group.

When evaluating checklist items for Requirement 11, it is important to remember that participation means either performing analysis on one of the selected companies or participating in the selection process.

Additionally, it is important to know that the Market Action (D) Working Group’s annual national analysis process uses the Market Conduct Annual Statement (MCAS) and other existing data to identify companies of national (or multi-jurisdictional) interest that exhibit potential market conduct issues. The process includes the review of the following lines of business: 1) private passenger automobile; 2) homeowners; 3) individual life; 4) individual annuity; 5) group accident and health; and 6) individual accident and health. The lines of business are generally segregated into property/casualty; life and annuity; and health teams. The goal is to find and address issues common across jurisdictions, while reducing the strain on single jurisdictional resources.

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The Market Actions (D) Working Group selects a team lead for each of the teams to facilitate the selection of a minimum of five companies for each of the six lines of business. Market Actions (D) Working Group volunteers can be chosen to work with the leaders to identify the companies that will require more in-depth analysis.

Overall, jurisdictions should work together to test the results of the market analysis process against their findings to refine the process. By doing this, the jurisdictions can develop a more efficient market analysis process that will provide more useful information about companies’ market activities. By working together in this manner, jurisdictions will achieve the goal referenced above.

To evaluate whether your jurisdiction “passes” Requirement 11, the jurisdiction must answer “Yes” to checklist item 11a. and item 11c., in addition to providing a name of the individual (or individuals) who participate in the annual national analysis project and who participate on a national analysis team at least every other year. Please note that participation on a selection team qualifies as participating in the national analysis process for the year that the jurisdiction is on a selection team.

**Drafting Note**: Assumes at least one company to be reviewed is licensed or conducting business in your jurisdiction.

### Checklist for Requirement 11

<table>
<thead>
<tr>
<th>Item</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>11e. Does your state participate in the review of national analysis data on an annual basis? Has the department established procedures to ensure annual participation in national analysis project?</td>
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<tr>
<td>11f. Who in the department, by functional title, participates in the annual national analysis project?</td>
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<td></td>
</tr>
<tr>
<td>11g. Does your state participate in one national analysis team at least every other year? Has the department established procedures to ensure participation on a national analysis team at least every other year?</td>
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<tr>
<td>11h. Who in the department, by functional title, participates on a national analysis team at least every other year?</td>
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</table>

**COMMENTS:**

attachment: Attachment B
Requirement 121 – Interdivisional Collaboration

The Department of Insurance has established and follows a systematic procedure for interdivisional communication (as referenced in the Market Regulation Handbook).

Objective

The objective is to establish a systematic procedure for interdivisional communication, as well as specific guidance regarding which requirements govern or define interdivisional collaboration. This includes identifying warning signs that all staff should share with the market analysis chief (MAC). In particular, all insurance department staff should report to the MAC when information of concern that may result in consumer harm is received in the department.

Measurement

To evaluate whether your jurisdiction “passes” Requirement 12, the jurisdiction must answer “Yes” to checklist item 12a, item 12b, item 12c, and item 12d.

Guidelines

The objective is to establish a systematic procedure for interdivisional communication, as well as specific guidance regarding which requirements govern or define interdivisional collaboration. This includes identifying warning signs that all staff should share with the market analysis chief (MAC). In particular, all insurance department staff should report to the MAC when information of concern that may result in consumer harm is received in the department.

Insurance department staff should effectively communicate and coordinate with various areas within the department or other state agencies/legislature, as appropriate. Such communication should consist of information shared by other areas of the department as well as key findings resulting from research conducted by the staff. Evidence of this communication should be clearly documented. The communication process should include a formal method that allows for pertinent information from other areas (e.g., legal, rates and forms, actuarial, etc.) within the department that could impact market conduct to be shared with the staff. Examples may include regularly scheduled department head meeting, department managers’ meeting, information requests to other areas of the department, etc.

As a means of improving the sharing of information among the jurisdictions, at the conclusion of an investigation that resulted from interdivisional communication, all jurisdictions are encouraged to contact the jurisdiction’s market analysis coordinator in an affected jurisdiction and inform them of the results of the investigation.

When evaluating checklist items for Requirement 12, it is important to remember that market conduct problems do not occur in a vacuum. Complaint activity, legal issues, financial concerns or irregularities in rate and form filings often accompany them. At the same time, market conduct problems may be an early warning sign of other problems with a company, so it is essential for information to be shared and discussed between the MAC and other department staff. This should be done on a systematic basis, including, at a minimum, a quarterly meeting or questionnaire requesting other work areas within the department to report unusual activity that may be of interest to the MAC, such as patterns of adverse financial data, consumer complaints, policy termination activity, producer misconduct or use of noncompliant forms or rates.

To evaluate whether your jurisdiction “passes” Requirement 12, the jurisdiction must answer “Yes” to checklist item 12a, item 12b, item 12c, and item 12d.
12a. Has the department established procedures for the market analysis chief (MAC), or appropriate designee, to communicate interdepartmentally with the appropriate staff, either through written channels or by sufficient demonstration of action (such as regularly scheduled department head meetings, department managers’ meetings, or information requests to other areas of the department)?

12b. Does the MAC, or appropriate designee provide the appropriate interdepartmental staff with market concerns such as, but not limited to, financial data, consumer complaints, policy termination activity, producer misconduct or use of noncompliant forms or rates, related to the following functional areas:

i. Consumer Services

ii. Enforcement

iii. Legal

iv. Forms and Filing

v. Financial

vi. Market Analysis

vii. Market Conduct

12c. On a quarterly basis, does the MAC, or appropriate designee, solicit information from the above functional areas regarding adverse patterns on, but not limited to, financial data, consumer complaints, policy termination activity, producer misconduct, or use of noncompliant forms or rates?

Does the MAC participate in communication with other insurance departments regarding market analysis by posting and responding to NAIC Market Regulation and Market Analysis Electronic Bulletin Board inquiries?

COMMENTS:

Commented [HR82]: MO - Checklist Item 12d.: The objective of this requirement is to establish a systematic procedure for internal, interdivisional communication. This checklist item does not further or support the stated purpose of internal communication amongst divisions within the department. As such, we recommend deleting it from this requirement. If the Working Group believes it should be a part of the Program, we’d suggest considering placing it under Requirement 6: Collaboration with Other Jurisdictions.
Current Charge of the Working Group

The Market Regulation Certification (D) Working Group will develop a formal market regulation certification proposal for consideration by the National Association of Insurance Commissioners (NAIC) membership that provides recommendations for the following:

1) Certification standards.
2) A process for the state implementation of the standards.
3) A process to measure the states’ compliance with the standards.
4) A process for future revisions to the standards.

As per the charges adopted for the Market Regulation Certification (D) Working Group, the following is a draft proposal for charge 2 through charge 4.

Implementation Proposal

Three Year Self-Certification Program

- Upon adoption/approval of the First Tier Certification Standards [Voluntary Market Regulation Certification Program] the Market Regulation Certification Program Self-Assessment Guidelines and Checklist Tool and the Implementation Plan by the NAIC membership, participating jurisdictions may begin self-certification. No later than two weeks prior to the 2017 Fall National Meeting, each participating jurisdiction may submit a self-certification report that outlines the progress achieved towards implementation of the first-tier market regulation certification standards [Voluntary Market Regulation Certification Program requirements]. The self-certification will follow the formatted checklist designed and finalized by the Market Regulation Certification (D) Working Group. The self-certification report will be submitted to NAIC staff and reviewed by the Market Regulation and Consumer Affairs (D) Committee or a Working Group assigned to do so on its behalf. Each jurisdiction that submits a self-certification report will be provisionally certified.

- Prior to the 2018 and 2019 Fall National Meeting, each provisionally certified jurisdiction will submit its self-certification report to the Market Regulation and Consumer Affairs (D) Committee, which will monitor and assess its progress towards full compliance to the First Tier Certification Standards [Voluntary Market Regulation Certification Program requirements]. Jurisdictions that did not previously submit self-certification reports in 2017 may do so prior to either the 2018 Fall National Meeting or 2019 Fall National Meeting in order to receive provisional certification.

- During the three-year self-certification period, the Market Regulation Certification (D) Working Group will regularly review feedback from jurisdictions concerning any issues or recommended changes to the First Tier Certification Standards [Voluntary Market Regulation Certification Program requirements] and the Market Regulation Certification Program Self-Assessment Guidelines and Checklist Tool based on the use of the guidelines and checklist for self-certification.
Attachment C

Draft: 12/05/16


- At any time, participating jurisdictions may request peer-review, guidance, and training. To the extent necessary to accommodate such requests, NAIC staff may work with seasoned regulators with market conduct examination experience to assist in meeting the needs of such requestors.

- In 2020, jurisdictions will have the option to continue self-certifying or to apply for full certification. (See Full Certification Program below.) Jurisdictions that decide to continue self-certifying will use the same process described above.

Full Certification Program

- The Market Regulation Standards and Certification Committee will determine whether jurisdictions that apply to be fully certified meet the certification standards. Members of the Committee shall be appointed annually pursuant to the NAIC Bylaws. An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team) will conduct the certification reviews.

- No later than two weeks prior to the 2020 Spring National Meeting (or no later than two weeks prior to any subsequent Spring National Meeting), any participating jurisdiction may decide to continue to self-certify or apply for full certification by submitting an application for full certification with its self-certification report to NAIC staff. The jurisdiction’s application will be reviewed by the NAIC Review Team, which will provide its recommendation to the Market Regulation Standards and Certification Committee. For jurisdictions applying for full certification, the Committee will use applicable monitoring tools to verify the self-certification information reported by the participating jurisdictions. NAIC staff may use additional forms of verification deemed necessary, such as interviews or on-site visits. Each fully certified jurisdiction will be reviewed every five years to assess the jurisdiction’s ongoing compliance with the certification standards.

- The applications for full certification will be reviewed in the order in which they are received. No more than 12 reviews will be conducted in each of the first five years (2020 through 2024) of the certification program. Beginning in 2025 and in each subsequent year, jurisdictions that request to have full certification must submit their application with its self-certification report to NAIC staff two weeks prior to the Spring National Meeting. The NAIC Review Team will conduct the five-year re-assessments and review all the applications. Recommendations for full certification and re-certifications will be provided to the Market Regulation Standards and Certification Committee prior to the Fall National Meeting of the same calendar year. The Market Regulation Standards and Certification Committee will make its decision regarding certification or re-certification by the end of the calendar year.

- In the first five years (2020 through 2024) of the full certification program, all jurisdictions that submit an application for full certification will be provisionally certified by the Market Regulation and Consumer Affairs (D) Committee (as per the process described in the Three Year Self-Certification Program above) until their application for full certification is reviewed and a decision on the application is made by the Market Regulation Standards and Certification Committee.

- In the years between each five-year re-certification review, fully certified jurisdictions will submit annual self-assessment audits to NAIC staff at least two weeks prior to the Summer National Meeting.

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A jurisdiction may withdraw its application for full certification at any time. A jurisdiction that is fully certified can exit the full certification re-assessment cycle and choose to be either provisionally certified (per the process described in the Three Year Self-Certification Program above) or to not participate in the Market Regulation Certification Program.

A fully certified jurisdiction may qualify for financial incentives. (Details will be determined and approved by the Executive (EX) Committee.)

**Future Revisions**

Future revisions of the market regulation certification standards will be made from time to time by the Market Regulation Certification (D) Working Group with approval of the Market Regulation and Consumer Affairs (D) Committee and NAIC membership. New standards will be added only as necessary and added no more frequently than once per year. Revised sets of standards will constitute a new “certification tier.” An effective date will be specified for each new requirement within a tier. Self-certified and fully certified jurisdictions that comply with a previous tier of requirements will not be measured on compliance to new tier requirements until the first annual self-assessment audit or the five-year re-certification review (whichever occurs first) after the effective date of the new requirement.