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Chair Doug Ommen and Vice-Chair Anita Fox
Life Insurance and Annuities (A) Committee
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1000
Kansas City, MO 64106-2197

Dear Commissioner Ommen and Director Fox,

Re: Market Regulation Technology & Improvement Exposure

The American Council of Life Insurers (ACLI) appreciates the opportunity to engage with the Life Insurance and Annuities (A) Committee's exposure on market conduct modernization and its interest in exploring whether emerging tools and technology can support a more proactive, risk-focused oversight. We view these questions to be part of an important early stage of a broader market conduct modernization effort. We support continued dialogue on how regulators and industry can work together to improve efficiency in market conduct reporting and data capture, accuracy in data intake and analysis, and continuing protection of consumers.

While these questions were exposed by A Committee, many of the questions raised in this exposure appear to explore structural components that could be more appropriately addressed within the broader market conduct initiative under the D Committee, specifically in the newly formed Market Conduct Regulation Modernization (D) Working Group. We note the new D committee working group has a charge to "Provide recommendations for the improvement and modernization of the market conduct regulatory framework." As these issues continue to develop, coordination and collaboration between the two workstreams will provide the most robust starting point for meaningful market conduct modernization.

American Council of Life Insurers | 300 New Jersey Avenue, NW, 10th Floor | Washington, DC 20001

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 94 percent of industry assets in the United States.

Market Conduct Data & Existing Technology

Exposure Questions Addressed:

- *Are there ways that technology can be used to improve market regulation (related to advertising, marketing and sales) for the benefit of consumers? In particular, are there ways that regulators can be more proactive rather than retrospective.*
- *Are there ways to aggregate findings to provide early feedback to industry to encourage course correction in real time?*

From an industry perspective, exploration into how technology can improve the quality, interpretation, and use of existing data will be valuable alongside meaningful review of existing protocols. A recurring theme across the exposed questions is whether technology can be utilized to help regulators lean in on proactive supervision and dialogue with industry. However, absent reflection on and improvement of current data capture practices and analysis, technology will only provide another layer of process to the mix. A strong and practical first step for regulators to assess ways to be more proactive, rather than retrospective, is to leverage existing tools. Further, exploring ways to aggregate regulator findings so regulators can provide early feedback to industry for course-correction would provide beneficial early intervention that prevents time and resources wasted on potential misunderstandings or misinterpretations.

Improving MCAS data quality is a proactive measure to improve market regulation.

For market conduct data, MCAS has been the longstanding means to analyze market conduct data and is projected to be the “primary source of market conduct data for use in market analysis.” (*See NAIC Market Conduct Annual Statement Background*). This existing annual reporting tool allows regulators to monitor, benchmark, and analyze company practices at a national and state level. However, experience has shown that at times MCAS data can be misunderstood or misinterpreted. As an example, sometimes in response to standard data requests, insurers report zero or low values to indicate no product activity or to reflect information related to closed blocks of business. Without additional context, these data points may be interpreted as indicating a broader market trend or a company-specific issue. To be most effective, any technology enhancements should be paired with underlying process clarity, as layering new tools onto existing workflows without corresponding adjustments may limit their ability to improve interpretation.

To advance regulator proactivity in improving market conduct to benefit consumers, we recommend:

- Analyzing the effectiveness of data yielded from current MCAS questions for each line of business to determine if there are ways to improve reporting to advance data quality.
- Examining current definitions and FAQs related to MCAS to determine if there are further opportunities to provide clarity to industry, resulting in better quality market data.
- Exploring how regulators can more effectively engage with companies early into the MCAS data analysis process if data reported by a company appears to be an outlier to determine if the result is impacted by any misunderstanding or misinterpretation of the questions or industry-wide reporting trends.
- Assessing what data is actually being used by regulators, and for what purposes, to assist in determining what data is essential to request.

Limiting the number of questions asked and data provided will reduce data noise and improve quality of results, shifting regulator focus to the most essential data that provides the best benchmarking and identifies the most pressing market issues. Before exploring the use of advanced analytics, it would be important to ensure that the underlying data is properly captured and contextualized.

Technology may be helpful in identifying reporting trends over the years to improve data quality.

After assessing ways to improve MCAS data quality, technology may offer opportunities to help regulators interpret data already received, which can improve efficiency for both regulators and industry, and provide expedient avenues for communication to industry to address real-time questions. Absent industry understanding of the steps different regulators and departments of insurance take in analyzing annual data, our input is limited on specific technology tools or devices to address current gaps, and we are happy to provide follow-up as this workstream develops. Keeping that in mind, the following areas are initial ideas of how to potentially improve existing tools and areas for new technology to be developed:

- Utilizing advanced technology to identify routinely under-reported categories or lines of business.
- Cataloguing the many NAIC technology investments of the past decade to determine if these investments can be leveraged to reach some of the objectives identified in the exposure.
- Reaching out to the community of vendors who supply supervisory technology solutions to insurance departments and the NAIC to determine areas for projected growth.
- Surveying regulators or departments of insurance who have provided early communication avenues with industry to assess the best practices in course correction.
- Surveying states who do not currently participate in MCAS to determine how to achieve further participation in MCAS and uniformity in data collection.
- Assessing inconsistencies or conducting gap analysis in MCAS reporting across states.
- Analyzing low-tech solutions such as online forms for companies to provide the most up-to-date point of contact information for market regulation inquiries to secure efficient communication amongst industry and regulators.

Along with these solutions, we believe strong coordination with the D Committee and corresponding Working Groups will provide the most helpful answers to improve market regulation and early feedback opportunities, encouraging course correction. We look forward to further clarity and continued opportunities for dialogue on this topic as ACLI members believe MCAS data collection and analysis offers key benefits for industry, regulators, and consumers.

Annuity Illustrations and Performance

Exposure Question:

- *Are there tools to evaluate and compare projected accumulations in an annuity illustration at time of sale with subsequent actual performance? This could help identify which annuities significantly fail to meet projections or require an update to the illustration.*

Questions relating to comparisons between illustrated annuity values at the time of sale and subsequent actual performance raise important conceptual considerations, but based on our current understanding, these questions do not identify a specific gap where technology can improve processes. Illustrations are designed to explain how an annuity works under defined assumptions at a point in time; they provide transparency into product mechanics and risks, not predictions of future performance. Because of the assumptive and time-situated nature of illustrations, creating a tool to evaluate and compare projected accumulations in an annuity illustration at time of sale versus subsequent actual performance would not provide meaningful cumulative results that could improve market regulation for the benefit of consumers. Further, absent strong human-in-the-loop parameters, any type of cumulative evaluation could provide false assessments as these illustrations are specific to points in time and consumer.

Existing A Committee workstreams like the Annuity Buyer's Guide Working Group's draft improvements to the Buyer's Guide on Deferred Annuities, the Annuity Suitability Working Group's Best Practices for Model

275, and the Life Insurance and Annuities Illustrations Working Group's Exposure regarding illustrated rates and transparency all demonstrate A Committee areas where this type of question might better be addressed. We believe that any discussion of analytical tools in this area would benefit from further coordination with existing illustration standards and related NAIC workstreams.

Distribution and Compensation Considerations

Exposure Question:

- *Are there tools that could be used to monitor IMO compensation incentives?*

The questions raised regarding the monitoring of compensation incentives, specifically the independent marketing organization (IMO), raise complex considerations around distribution structures, jurisdictional scope, and existing regulatory oversight. In examining questions surrounding this issue, clarification on the specific gap in regulation would be helpful in better steering our future dialogue on this topic. Defining the issue more clearly in seeking further stakeholder input would help avoid duplicative oversight and unintended impacts across different distribution models.

Consumer Experience

Exposure Question:

- *Are there efficient ways to monitor what consumers actually see?*

In regard to consumer experience, and the question of whether there are ways to monitor what consumers see, additional clarification would allow us to better address these concerns. Market Conduct surveillance currently provides a regulatory framework for analysis of consumer-facing materials raised by regulator-identified market conduct issues.

To the extent regulators have specific concerns to some scenarios, such as illustrations shown to consumers in-person that they believe may not be fully addressed through traditional examination methods, additional clarification and dialogue would be valuable to better understand the nature of those concerns and how existing tools could be leveraged or refined.

Conclusion

Given the timeline to respond and the span and significance of these important issues, ACLI welcomes the opportunity to further engage on an ongoing basis. We encourage continued coordination across NAIC committees and workstreams, as well as continuing engagement with a diverse range of stakeholders. Ongoing dialogue, informal outreach, and phased exploration of concepts may help inform future discussions and support balanced, effective outcomes.

We appreciate the opportunity to comment on these questions and the NAIC's continued leadership and engagement with industry on market conduct modernization and look forward to ongoing dialogue as this work moves forward.

Sincerely,



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CC: Jennifer Cook, NAIC