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RE: Transaction Level Data

Dear Ms. Rebholz and Ms. Dzurec

Thank you for the opportunity to provide comments on the use of transaction level data for the purposes of the Market Conduct Annual Statement. The Health Benefits Institute is a group of agents, brokers, insurers, employers, benefit platforms and others seeking to protect the ability of consumers to make their own health care financing choices. We support policies that expand consumer choice and control, promote industry standards, educate consumers on their options and foster high quality health outcomes through transparency in health care prices, quality, and the financing mechanisms used to pay for care.

The proposal to use transaction level reflects a fundamental shift in data collection that would change from reporting of summary data to instead requiring the submission of detailed policy data for each transaction. For the travel insurance industry, the proposal was for the NAIC to collect over 40 data elements for individual policy transactions. For the short-term limited duration coverage, the proposal is to collect 28 separate data elements. In short, this means collection of 28 separate data elements on tens of thousands of individual policies from tens of insurance carriers.

We have a number of concerns about this proposed approach.

**A movement to collect transaction-level data may require legislative authority.** The National Council of Insurance Legislators and others have consistently raised concerns about the NAIC using “incorporation by reference” to circumvent legislative authority. While insurance commissioners have broad authority to collect needed information, the systemic collection of transaction-level data has not been contemplated by legislatures.

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Indeed, state laws have been required to expand the collection of financial data. The collection of transaction-level data without legislative authority could lead to state legislature's looking to limit insurance department's authority to collect data. The MCAS Blanks Workgroup should consider developing model law.

**Collection of transaction-level data should require the development of a model regulation.** Again, the collection of transaction level data is new and requires significant work. The existing legal framework is insufficient to support the movement to transaction level data. It is not and should not be as simple just deciding to collect transaction level data. If the NAIC decides development of a model law is unnecessary, at the very least participating states should be required to adopt model regulations to ensure the collection of the data is consistent, and within the authority of the department.

**It is a fundamental change in the market conduct annual statement process.** Make no mistake, the proposal is a fundamental change in the MCAS process. Collection of transaction level data rather than summary data will create new issues and new problems. If there is agreement to move forward, it should be understood that we do not fully understand all of the issues, and can expect that any useful data may take even more time to understand.

**Compliance for many small companies will be challenging.** The short-term limited duration market and the excepted benefits markets include numerous smaller insurers. In many cases, they rely on third-party administrators to provide for some or all of their back office needs. As a result, their IT resources are limited. Requiring these insurers to provide transaction level data will be a significant administrative burden and expense.

**Data reliability will be uncertain.** With the current process in other lines, core issues can be detected with the summary-level data. For example, a carrier may report the same number of terminations from one year to the next. In summary level data, the patterns from year to year can be examined and data anomalies can be found. Transaction level data potentially will make that process more difficult both for the production of the data and the assimilation of the data. Carriers already have systems developed to provide summary data. New systems, with new system problems, will be required to do transaction level reporting. Certainly, the NAIC in the collection of data can do a data integrity review but that process may be more difficult for tens of thousands of individual files for 28 data elements on numerous companies.

**The NAIC Consumer representative transaction level data list needs significant work.** For example, SERFF filing numbers are not associated with a specific policy, it is typically recorded as a state specific approved policy number. It is important to note that almost all of the policy forms may be submitted electronically, but that doesn't mean that agent was not physically present for the transaction. In short, the proposed list of items needs to be studied, and we would strongly suggest studying the issue with small, medium, and large insurers before even considering formally moving forward.

**MCAS should be looking at outliers.** The Market Conduct Annual Statement process is intended to find outliers in a given year and over time. In our view, the MCAS is not intended to answer regulator questions on why something happened but rather identify patterns that require additional investigation. Use of consistent, reasonable scope summary data provides those patterns for review to identify potentially problematic patterns. This is how it works with the other MCAS lines. Unfortunately, in health -related insurance the interest in more data clouds the issues rather than providing additional clarity.

Thank you again for providing an opportunity to comment on the proposal to expand MCAS to include transaction level data. Please do not hesitate to contact me if you have further questions at [jpwieske@thehealthbenefitsinstitute.org](mailto:jpwieske@thehealthbenefitsinstitute.org) or (920) 784-4486.

Sincerely

A handwritten signature in green ink, appearing to read "JP Wieske", with a long horizontal flourish extending to the right.

JP Wieske  
Executive Director