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Petra Wallace, AAI, ACP, AMCM, ASLI
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Dear Petra

We have just reviewed the comments made by CEJ and have some concerns with how Process Review is represented. We do not see Process Review in conflict with Empirical Evidence of Consumer Market Outcomes. Presently, there are several tools the regulator utilizes to identify adverse consumer market outcomes. The regulator does not have the time or resources to look at all outcomes but is certainly interested in those that are adverse.

Market conduct examinations are usually generated on some evidence that there has been some failure in a consumer market outcome. If the outcome is adverse and frequent or particularly egregious, a state may call for an examination or one of the other options available under the continuum of regulatory responses. To suggest otherwise would mean that market conduct examinations should be expected and called periodically on every regulated entity. We believe this suggestion ignores the available resources issue faced by regulators today. In my mind would be terribly inefficient.

In the proposal we submitted for the working groups review, we have tried to point out that once a market conduct examination is called there are several methodologies that can be utilized to determine the credibility of the issue being considered. Process review, we believe is a good tool at pinpointing where failures in a Company's process are the causation for an adverse consumer market outcome. It also serves as a remedial tool to ensure adverse consumer market outcomes do not continue in the future. If a regulated entity is engaging in activity that results in consumer market outcomes that harm the consumer, it is not particularly helpful to sift all outcomes to find the ones that are of interest because they are harmful. Tools already exist that do that kind of sifting. The most effective of these is the consumer complaint system in use in most states. When patterns of inappropriate activity arise, it is generally from the tools already in use.

Once an inappropriate result is detected, it then becomes important to identify why the activity is occurring. This is where the proposed methodology becomes particularly useful. Once the causation for the activity is adequately identified, corrective action becomes practicable. The collection of mountains of data is not necessarily a positive method for resolving issues related to identifying consumer market outcomes since the cost of the data collection merely serves to

increase the cost of the product.

CEJ suggests that the process review is based on the premise that good policies and procedures produce good market outcomes. It then utilizes the NAIC treatment of the IMSA model as an example of why that would be a poor reason for adopting the methodology. We believe that statement is misleading. What we have said repeatedly is that process review is a good means for identifying processes that result in poor outcomes by identifying causation, not identifying good processes. The basis for any process review under this proposal is, what do the statutes require and do the processes used by the company achieve the level of compliance the regulator should expect.

Thank you.

Sincerely,



Don Koch