

Draft: 11/18/20

Speed to Market (EX) Working Group
Virtual Meeting
November 10, 2020

The Speed to Market (EX) Working Group of the Innovation and Technology (EX) Task Force met Nov. 10, 2020. The following Working Group members participated: Maureen Motter, Vice Chair (OH); Katie Hegland (AK); Gina Hunt (AL); William Lacy (AR); Frank Pyle (DE); Heather Droge (KS); Camille Anderson-Weddle (MO); Tammy Lohmann (MN); Kelly Smith (NC); Chris Aufenthie and Chrystal Bartuska (ND); Russell Toal (NM); Cuc Nguyen (OK); Mark Worman (TX); Tanji J. Northrup (UT); Bob Grissom (VA); Gail Jones and Lichiou Lee (WA); and Barry Haney (WI). Also participating were: George Bradner (CT); and Donna Stewart (WY).

1. Adopted its Sept. 29 Minutes

The Working Group met Sept. 29 and took the following action: 1) adopted its Aug. 27 minutes; 2) discussed possible discontinuation of the Product Requirements Locator (PRL); and 3) discussed communication plans for speed to market tools.

Ms. Northrup made a motion, seconded by Ms. Lohman, to adopt the Working Group's Sept. 29 minutes (Attachment One-A). The motion passed unanimously.

2. Considered Discontinuation of the PRL

Ms. Motter noted that there was some good discussion on the PRL during the Sept. 29 Working Group meeting. She advised the discussion was about use of the PRL and explained it was only adopted on the property/casualty (P/C) side and populated many years ago by about 26 or 27 states. There is a question about whether the states that populated the PRL are keeping it updated or if they have found other methods to share their review requirements with the industry, and that by continuing to display that information in the PRL, they may be sharing incorrect information. There were states that shared they continue to populate the PRL or intend to have it up to date but have struggled with resources. In response to that discussion, a draft survey was created and shared with Working Group members and posted on the Working Group web page for review. Ms. Motter noted the survey will only be sent to the states that have populated the PRL, but before it is generated, feedback is being requested. The intent is to understand the state of the information that is currently out there in the PRL.

Joe Bieniek (JFB Associates Regulatory Compliance LLC) suggested that on the questions populated if "yes" is the response, adding the following question: "Would you find it helpful if the general requirements tab added a statement and hyperlink to the PRL, for something like: "additional requirements for filings by product type may be found by using the product requirements located here," and then placing that information there. Bridget Kieras (NAIC) stated that something like what Mr. Bieniek has suggested be placed on the filing itself, perhaps on the submission requirements tab. Ms. Motter asked if it should be on the state page where there are categories and sections that are pre-filled. Ms. Kieras advised that would be the general instructions and noted it could be there but suggested it also be on the filings.

Theresa Boyce (Chubb Group) believes it would be more beneficial on the general instruction page. She explained that sometimes when they are preparing a filing for a new product, it would be nice to go somewhere where you do not have to create a filing. She noted that having it on the filing itself requires users to set up a filing when they may not be ready to do that. She explained when users go to the filing rules tab, that has all the links for each state to the general instructions. Ms. Boyce said she believes it would be easier to get to the information directly on the general instruction page without having to set up a filing. Ms. Motter advised this was discussed but explained adding this as a field in the general instructions would slow down the process. Ms. Kieras noted that you also would not want it to show for the states that are not using the PRL and explained it might be best to first find out if states still find the PRL tool valuable and then determine how to get users to use it if they do. Ms. Motter noted that one of the other things discussed was not just gathering information specific to the PRL, but also gathering information outside of the System for Electronic Rate and Form Filing (SERFF) that is a resource. She advised that Ohio has a review standards checklist by type of insurance (TOI) on their website, so anything that could be provided as a link showing additional information to assist users with making a good filing would be helpful. Ms. Boyce noted that she has seen that in some states, but that the link is not always direct and is also not clear enough. She stated many times the link just takes users to the state's website, and then they must search for the needed information. Ms. Boyce noted that if a link is to be provided, it would be helpful if it takes users to exactly where the information needed is located instead of a general website, which is not as beneficial.

Ms. Motter asked if there was a desire to add Mr. Bieniek's suggested question to the draft survey or to wait and handle the question for links within the general instructions until it is decided if the PRL will be a source in the future, as that question may not end up being PRL-specific as there may be links to websites or other resources.

Mr. Bradner asked how future modifications to SERFF that are currently being looked at from a request for proposal (RFP) perspective may address some of the questions in the draft survey. He said he believes some of the information regarding the PRL could be addressed with the modernization of SERFF. Ms. Motter advised she believes some of this has probably been built into SERFF on submission requirements in certain places. She said she believes SERFF enhancements will address some of the concerns being discussed here. Ms. Kieras noted that the SERFF modernization project could have a substantial impact on this. She noted she did not imagine when the SERFF modernization project was complete that there would still be this separate application users would be accessing to get the information they need. Ms. Kieras noted that one of the things to consider is if users find value in the PRL, determining what that value is and what pieces of that can be incorporated into the SERFF modernization efforts. Ms. Motter noted that she believes the survey will be helpful in identifying the states that have let the PRL become outdated and then assist the states that do have updated information and determine the best way to share that until the SERFF modernization project is complete. She agreed that it would be good to determine the information that is in the PRL that should be incorporated into the SERFF modernization project.

Ms. Motter noted that since the SERFF modernization project is ongoing, for now the best approach may be for states to share what outside resources are currently being used, whether it be the PRL or specific state website addresses to help with better filings. Mr. Bradner noted that Connecticut extensively uses the PRL and that the only frustration is that companies must look at it. He noted that by building out business rules with the SERFF modernization project, he believes it will assist companies as they are doing a filing with the state because it will let them know what the requirements are and find issues that could be there. Ms. Boyce noted that Chubb Group does a significant number of filings each year and that she is familiar with the PRL as the filing manager. She stated one of the frustrations is that many states do not keep the PRL updated, and she finds that her staff and her product team do not use it as a result. She said she believes in general this may be why companies are not utilizing the PRL. Ms. Motter suggested that the initial steps be generating the survey to the states that populate the PRL and deleting any outdated information. Then, while the SERFF modernization project is underway, the Working Group can identify a solution to assist people with locating the resources that are current and up to date, which would also include gathering information from the states that will not be included in the PRL survey. She noted one idea is including information in the general instructions such as a link to the PRL, a link to the state's review standards checklist or the state's website information. Mr. Bradner agreed with these suggestions. Ms. Motter advised the survey will be sent to the 26 to 27 states that populate the PRL, and then future discussions will take place for next steps.

3. Discussed Phase One of the Communication Plan for Speed to Market Tools

Ms. Motter advised one of the Working Group's charges is to work on a communication plan to discuss the various speed to market tools and make sure relevant parties are aware of the tools, know how to use the tools and know how to make changes to them. One of the initial communication plans discussed was sending out messages in SERFF with respect to the product coding matrix (PCM). Ms. Motter said she has started drafting the message and is working with Mr. Bieniek and Trish Todd (VA) on this. The draft message will be discussed during a future Working Group meeting. Ms. Motter noted there was a little bit of change to the PCM that will be effective Jan. 1, 2021. She reminded everyone they can submit suggested changes to the PCM at any time.

4. Discussed Other Matters

Mr. Bradner noted a private flood product is being brought to Connecticut. The first filing will be an overall stand-alone flood program. Then the next thing mentioned was having a product that can be endorsed to the homeowners policy as they are surveying companies and there may be more of a desire to do it that way than having a stand-alone policy. He stated he is aware of a flood TOI, flood personal and flood commercial. He said he wonders if it would make sense to have a homeowners TOI and then a sub TOI for flood so that it is captured if a company does that and it can be tracked. Ms. Motter noted that if a flood endorsement is added, it would be an endorsement to a homeowners policy, so the recommendation would be to submit as a homeowners because it is just one of many endorsements attached to a homeowners policy. To help identify the filing, state insurance regulators can utilize state filing descriptions, filing labels or state TOIs, so that if the filing has flood in it, there are ways to highlight, search and locate those filings. Mr. Bradner noted concern about capturing information on private flood premiums from a financial perspective when more companies start to go that route. He stated those private flood premiums would just be hidden within homeowner premiums. Ms. Motter noted that this concern appears to be not only related to how to file, but how to report premiums and losses, which would be a matter for the Market Conduct Annual Statement Blanks (D)

Working Group to review. Mr. Bradner noted that maybe with the SERFF modernization project, endorsements can be more easily tracked. Ms. Motter noted that one thing that is nice about the filing labels is that they can be searched; one of the goals in the future is to be able to export them. She advised multiple labels can be placed on a filing.

Ms. Motter noted that the next Working Group meeting will be scheduled after the Fall National Meeting and that survey results should be available to be discussed at that time.

Having no further business, the Speed to Market (EX) Working Group adjourned.

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Draft: 11/16/20

Speed to Market (EX) Working Group
Conference Call
September 29, 2020

The Speed to Market (EX) Working Group of the Innovation and Technology (EX) Task Force met via conference call Sept. 29, 2020. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Katie Hegland (AK); Shirley Taylor (CO); Heather Droge (KS); Tammy Lohmann (MN); Ted Hamby (NC); Jon Godfread represented by Chris Aufenthie (ND); Glen Mulready (OK); Sharalyn Taylor and Mark Worman (TX); Tanji Northrup represented by Tracy Klausmeier (UT); Gail Jones and Lichiou Lee (WA); and Barry Haney (WI). Also participating were: Chris Wright (OH); Bob Grissom and Trish Todd (VA); and Donna Stewart (WY).

1. Adopted its Aug. 27 Minutes

The Working Group met Aug. 27 and took the following action: 1) discussed its priorities and charges for the remainder of 2020; and 2) discussed parameters and output fields for the System for Electronic Rate and Form Filing (SERFF) Canned Report for Rate Changes.

Mr. Hamby made a motion, seconded by Ms. Motter, to adopt the Working Group's Aug. 27 minutes (Attachment One-A1). The motion passed unanimously.

2. Considered Discontinuation of the PRL

Ms. Nichols noted that the Product Requirements Locator (PRL) tool was designed to generate reports showing regulatory requirements by state for specific product types. To use the PRL, the states needed to add their regulatory requirements into the tool. The PRL has not been utilized as widely as expected or as hoped. At a review last week for the property and casualty lines, 27 states had entered their requirements, two states had entered requirements for life products/lines, and one state had entered requirements for health products/lines. Ms. Nichols noted that the process for entering and editing information into the PRL is not easy, which may explain why more states are not using the tool. This may also be why the tool has not had updates in several years. There is concern that the PRL tool may be out of date. Ms. Nichols noted that the Working Group needs to decide if the tool should be discontinued, and she explained that the information currently in the tool can be extracted so states would not lose any of that information if it were decided that the tool be discontinued. She asked for comments on this topic.

Ms. Lohmann noted that Minnesota is currently using the tool, and it has spent a lot of time on it and has had some difficulty updating it. She agreed that it is a difficult tool, but she stated that Minnesota would need a lot of advance notice if it were to be discontinued and suggestions on how to roll over the information to something else more effective. She noted that Minnesota is reliant on SERFF and NAIC resources to house this information.

Joe Bieniek (JFB Associates Regulatory Compliance LLC) provided his background, which included being a company filer and NAIC staff member. He noted that he was part of the group that assisted in helping state insurance regulators build the filing requirements into the PRL. The purpose of it is to provide the industry with the requirements necessary to make filings that meet state requirements. It was built by state insurance regulators who know their requirements well and better than any portions of the PRL that can be purchased commercially. The information, when kept up to date, is 100% accurate. Mr. Bieniek noted that the *Product Filing Review Handbook* indicates that with other tools for state insurance regulators, the checklists and PRL provide a common format for display of the statutory and regulatory filing requirements in a manner that is useful to industry filers; the checklists and PRL help contract review analysts to organize the filing review; and the checklists and PRL are effective when they are drafted in clear language that tells the filer what the state insurance regulator expects to find in a compliant filing.

Mr. Bieniek noted that he understands that the PRL has not been kept up to date; some of the hyperlinks to laws have changed; and the industry has not been using it widely, as they either did not know the PRL was available or they ignored it. He also stated that new state insurance regulators may not be informed about the PRL. He believes the current database is structurally sound, has assisted industry, and benefited state insurance regulators. He suggested concentrating on property and casualty, but first updating the requirements, in order to strengthen the PRL. This could be done by having state insurance regulators in each jurisdiction assign one to two people to devote one to two hours per person, per week until complete. NAIC staff can assist state insurance regulators in building the requirements, as was done in the past. Regarding broken hyperlinks, there are

commercially available programs at a low cost that the NAIC can periodically run to find the broken links, and they can get in touch with the state or perform the research themselves to determine what the current hyperlinks are. Mr. Bieniek noted that with social media in wide use, state insurance regulators and the NAIC can push on the various platforms; and the chair of the Working Group could be featured in one of the NAIC “The Regulators” podcast episodes. He also suggested considering expanding one of the filer-required templates to ask what sources the company used to be certain that the submitted filing meets the requirements. In this fashion, several resources are listed, including the various NAIC items and the PRL.

Ms. Nichols asked if there are any metrics as to how often this tool is used by industry. Brandy Woltkamp (NAIC) noted that there was never an analytic tool for that put in place for PRL. She noted that the NAIC receives very few questions on the PRL tool. Ms. Motter noted that the survey done a couple of years ago asked what tools were being used to bring products into compliance, and the results indicated that the PRL was one of the least used resources and did not appear to be a tool that was heavily relied on.

Theresa Boyce (ACE Group) stated that as an industry Filing Manager, she can relate to some of the statements made by Mr. Bieniek and Ms. Motter. She noted that when the tool was created, she thought it was a good idea to have everything in one place, and she has followed the tool since it started. She was not surprised to hear that the survey indicated that the PRL was not being used as much, because industry must rely on other tools due to all states not utilizing the PRL. She noted that it is sometimes hard to find where each state’s requirements are, and she thinks the PRL has the potential to be a really good tool because the information comes directly from the states.

Ms. Motter noted that it may be helpful to find out where each of the states have their information up to date and try to create a place within the NAIC website where users could click on that state and be taken to where that state is keeping its information. Ms. Todd noted that year-to-date, Virginia has only had 10 views of the PRL off its website. Ms. Nichols noted that an option Virginia has been considering, which it has started, is downloading all its requirements and creating a Microsoft Excel workbook that it intends to post to its website, as it is easier for it to maintain since Microsoft Excel is more nimble. This also gave Virginia a lot of flexibility with category names and search options. Ms. Nichols noted that Virginia is not sufficiently staffed to update the PRL in its current form, as it is too tedious.

Ms. Motter noted that the survey indicated that users were looking for what the specific state requirements were when they went to submit filings for a state. She suggested a link on the NAIC website that shows users what each state’s requirements are. She explained that this may be helpful, as there would be one location to search for that information versus going to each state’s website. Ms. Nichols noted that it appears that this issue needs to be tabled for now. Ms. Motter suggested starting with finding out where Working Group member states have their up to date requirements, checklists, or things given as resources to people doing filings. Ms. Nichols agreed that this would be a good place to start, and she noted that this would open another opportunity for dialogue on this topic.

Ms. Stewart asked if most states attach their rate and form filing requirement checklist on the SERFF general information page. Ms. Boyce noted that they do not, and Ms. Woltkamp confirmed the same. Ms. Motter asked if a field could be added where states could let filers know where review standards are located or where a link to state insurance departments could be placed for every state. Ms. Woltkamp noted that there is an ability for states to add hyperlinks into the general instructions that could be added to that section today. Ms. Motter noted that there could be a communication provided encouraging states to provide a hyperlink to their statutory references, checklists, or whatever information exists with their review standards. Ms. Woltkamp noted that this would be her suggestion as far as the quickest solution. She noted that in the general information section, there is an “additional information” link under the “change of effective date request.” On the Interstate Insurance Product Regulation Commission’s (Compact’s) general instructions page, that is exactly where they have their uniform standards listed. Ms. Todd noted that in Virginia’s general instructions, it has the PRL linked to the Virginia website; and in SERFF, it also has a question asking the filer if they have read the general instructions. Ms. Nichols noted that the Working Group has some things to consider, such as a communication encouraging regulated entities to have that link added to their SERFF general instructions. She suggested that this topic be tabled for now and that a proposal be created for the Working Group to consider during its next call.

3. Discussed Communication Plans for Speed to Market Tools

Ms. Motter noted that one of the Working Group’s charges is related to familiarity with the tools and updating the tools. She stated that the survey previously discussed also showed that many filers, both state insurance regulator and industry, are not familiar with other tools and resources available to assist in the speed to market process. As a charge of communicating information about these tools and making people more knowledgeable about them, as well as how changes to the tools occur,

one idea is to utilize the SERFF system and send out alerts. Depending on the subject, it may make more sense to say something a little different in the message to the state insurance regulator versus the message to the industry. It could be a monthly alert featuring a specific tool rather than combining them all at one time. For example, since people will soon prepare for the recent changes to the Product Coding Matrix (PCM), which takes effect Jan. 1, 2021, it could be an opportunity to make people aware of the tool and what types of insurance (TOIs) exist, as not all states use the same TOIs. Ms. Motter also wants to ensure that everyone is aware that suggested changes can be made every year, not only to the PCM, but also to the Uniform Transmittal Document. Making any needed changes is an ongoing charge every year.

Another tool that will soon be updated is the *Product Filing Review Handbook*. It is a resource for the state insurance regulators to use for training purposes for their staff, in addition to their own materials, regulations, laws, etc. The Casualty Actuarial Society (CAS) Task Force is working on a chapter with respect to modeling, and that will be added to the handbook when it is complete. Ms. Motter noted that she could do the drafting, and she asked for feedback on this communication plan and any suggestions. She also asked for any volunteers that would like to assist with these tool communications. Mr. Bieniek and Ms. Todd noted that they would be happy to help. Ms. Motter noted that the other tool identified that people may need more familiarity with is the Compendium of State Laws on Insurance Topics, and the solution for the PRL could also be a topic. She stated that she will start working with her team on these items.

Having no further business, the Speed to Market (EX) Working Group adjourned.

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Draft: 9/14/20

Speed to Market (EX) Working Group
Conference Call
August 27, 2020

The Speed to Market (EX) Working Group of the Innovation and Technology (EX) Task Force met via conference call August 27, 2020. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Katie Hegland (AK); William Lacy (AR); Shirley Taylor (CO); Emily Beets (KS); Tammy Lohmann (MN); Camille Anderson-Weddle (MO); Ted Hamby (NC); Chrystal Bartuska (ND); Cuc Nguyen (OK); Brian Fordham (OR); Mark Worman (TX); Gail Jones and Lichiou Lee (WA); and Barry Haney (WI). Also participating were: Bob Grissom and Trish Todd (VA); and Donna Stewart (WY).

1. Discussed Working Group Priorities and Charges for the Remainder of 2020

Ms. Nichols said that based on the 2019 survey responses, it seems there should be some future discussion on the tools and products available to state insurance regulators. The products that will be discussed during a separate Working Group conference call are: 1) the System for Electronic Rate and Form Filing (SERFF); 2) the Product Coding Matrix (PCM); 3) the Compendium of State Laws on Insurance Topics; SERFF reports; 4) the *Product Filing Review Handbook*; and 5) the Product Requirements Locator (PRL). There will be discussion on which tools state insurance regulators find useful and should be a continued focus, how to make sure understanding these tools would be best communicated, and if any of them should be forfeited or retired.

2. Discussed Parameters and Output Fields for the SERFF Canned Report for Rate Changes

Ms. Woltkamp said that the Canned Report will be placed in the state reports tab within the SERFF application. One of the first things that needs to be decided is the name of the report to be placed on this page. Ms. Motter suggested the report be titled *Rate Change History*. The description below the report will give a brief explanation of the report. Ms. Woltkamp reviewed and explained the parameters within the current SERFF State Turnaround Report for reference. Ms. Motter asked what date parameters would be of interest for rate change history. She explained it could be set up so that calendar dates could be selected, and a radio button could be included to choose if state insurance regulators were looking at dates of when filings were submitted to the state or a date range for when the filings were effective. This would be based off the information on the general information screen, which means a file would not have to be closed to appear in the output. Another thought was that state insurance regulators may want to see a date range off the disposition effective dates or the disposition date. Ms. Lee said it looks like the implementation date or effective date would be most appropriate because if state insurance regulators want to find out about the effective date for various filings and an average rate change, that seems like the best way. She asked about options available to choose dates. Ms. Woltkamp said it can be set up to change from requested effective date to the approved effective date based on the disposition as one of the selections to search with.

Ms. Motter asked if anyone would want to pull rate change data based on a time frame of when filing submissions were submitted. Ms. Lohmann said Minnesota uses submission dates. There was no interest expressed in having data pulled based off the disposal date. Ms. Motter said in regards to effective dates, it appears state insurance regulators would want both the requested dates and what is on the disposition so that the rate change history for filings that were still pending could be reviewed, in addition to the filings that are closed. Ms. Lee agreed with that comment. Ms. Motter said it sounds like the proposal for options via radio buttons is to put in a date range for all current date fields with exception of the disposition date.

Ms. Motter asked if there is any interest in selecting filings or narrowing and filtering down by the primary reviewer. In the SERFF State Turnaround report, primary reviewer is one the parameters. Ms. Todd advised she would find it useful to search by analyst. Ms. Motter asked if it would be useful to expand the search to any reviewer as opposed to just a primary reviewer. Ms. Nguyen and Ms. Todd said they would find that functionality useful. Ms. Woltkamp asked if the report has primary reviewer and secondary/other reviewers on the filing in the output file, would it still be as important to have that as a filling parameter to run the report if you could narrow the results in Excel and do the analysis from the actual output file. Ms. Todd said they could use the Excel spreadsheet to narrow it down. After further discussion among Working Group members, the decision was made to have reviewers as an output, but not as a parameter.

Ms. Woltkamp said another parameter in the SERFF State Turnaround Report is business types. Every state report has three types for Life, Health and Property & Casualty. She asked if there was an interest in having these business types as parameters. Ms. Jones expressed support for those options. Ms. Motter said the last parameter in the SERFF State Report is the option for report format of portable document format (PDF) or comma-separated values (CSV) file. It does not appear the PDF file will be an option for this new report because of the large amount of data that will be provided, so for now the data will be provided in CSV format in Excel so the data can be filtered as needed. If it seems everyone is using certain columns a lot, then this issue will be discussed and changed in the future.

Ms. Woltkamp said another parameter to consider is narrowing rate change history information based on filing types. Ms. Nguyen and Ms. Lee expressed interest in this parameter. Ms. Woltkamp said it would be a field where multiple filing types could be selected, like the primary reviewer options in the SERFF State Turnaround Report. Ms. Lee asked if the business type options would be choices by type of insurance (TOI) or by sub TOI. Ms. Woltkamp said it could be either. Ms. Lee asked if both TOI and sub TOI could be choices. Ms. Woltkamp said she is envisioning something like the search and export tab where a TOI can be selected and then narrowed down to sub TOIs.

Ms. Stewart asked if there was interest in having a specific insurance company as a field. Ms. Motter said the company name and NAIC number will be in the output fields so this data would be available. Mr. Grissom expressed interest in having the option to search for an NAIC number.

The output fields were discussed next. The first several output fields that will be provided are: company name, CoCode, state of domicile, filing type, date submitted, SERFF tracking number, state tracking number, primary reviewer, other reviewer, TOI and sub TOI. The first output field related to date will be for effective/implementation date request new, which will come from the general information screen. The next field related to date will be the disposition date, so if pending filings were being reviewed, this field would be blank. The next output field that will be provided is disposition status.

Ms. Motter said she does not think an output field for filing method is important and asked for input in case other states would need this column when they are doing the rate change history. Ms. Lee asked if the filing method was pulled from the general information area. Ms. Woltkamp said the filing method is on the rate/rule tab, which is provided by the company, so the company advises whether it is prior approval or file and use. Ms. Lee suggested removing this column because sometimes the company puts incorrect information in for this field. Ms. Motter said one would know based on their TOI which companies are file and use or prior approval, so this column was removed.

The next field that Ms. Motter wanted feedback on was for rate change type. This is also a field that companies complete. She said based on the percentage amounts, a conclusion could likely be made about whether there was an increase or decrease. Ms. Lee said she does not think this column is necessary. Ms. Motter said the rate change type column would also be removed. The next several fields discussed and reviewed reflect data from the rate and rule schedule tab (maximum change, minimum change, overall percentage indicated change, overall percentage rate impact, premium rate change, written premium for this program and last overall percentage), followed by the similar data that appears on the disposition tab (disposition maximum change, disposition minimum change, disposition overall percentage indicated change, disposition overall percentage rate impact, disposition premium and disposition premium rate change), with the only thing between those columns being the column for disposition effective/implementation date. Ms. Motter said this would allow state insurance regulators to see all information provided by the company. Ms. Motter asked if the ability to see state rate data could be added, and Ms. Woltkamp confirmed a column for state rate data could be added. Ms. Lee asked if it would be possible to add a column for the number of policyholders affected and said that on the rate and rule schedule for the health side, there is a field for number of policyholders affected for this program. Ms. Nguyen said she is also interested in this field. Ms. Motter said policy counts will also be included.

Ms. Motter asked if there were any other fields that people are interested in seeing on this report proposal that have not already been discussed. No additional fields were mentioned. She also asked if the column orders worked for everyone, and there were no comments on this matter.

Regarding the output file, Ms. Woltkamp asked if a parameter was selected for filing type and the option for rate was selected, but there was no rating information on that filing, would people still want to see the fields for overall percentage indicated change and over return, or would people prefer those fields not return. Ms. Motter said she would like to see the return in case she wanted to see why there was no rating information showing up. Ms. Nguyen agreed.

Ms. Motter asked what people would like the name of this report to be and suggested *Rate Change History Report* or *Rate Change Report*. Ms. Nguyen and Ms. Taylor supported the title of Rate Change Report. Ms. Motter suggested the description be: “The *Rate Change Report* displays rate data at the state instant level for filings during the specified date range.” Ms. Nguyen and Ms. Taylor agreed with that suggestion. Ms. Motter again asked for any other comments and suggestions, and there were none proposed.

3. Discussed Other Matters

Ms. Taylor asked when the rate report would be available for use, and Ms. Woltkamp said it would be ready early next year. Ms. Nichols said the next Working Group meeting will take place on Tuesday, Sept. 29 at 2:00 p.m. CST.

Having no further business, the Speed to Market (EX) Working Group adjourned.

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UNFAIR TRADE PRACTICES ACT

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Section 4. Unfair Trade Practices Defined

Any of the following practices, if committed in violation of Section 3, are hereby defined as unfair trade practices in the business of insurance:

- A. Misrepresentations and False Advertising of Insurance Policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:
- (1) Misrepresents the benefits, advantages, conditions or terms of any policy; or
 - (2) Misrepresents the dividends or share of the surplus to be received on any policy; or
 - (3) Makes a false or misleading statement as to the dividends or share of surplus previously paid on any policy; or
 - (4) Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or
 - (5) Uses any name or title of any policy or class of policies misrepresenting the true nature thereof; or
 - (6) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion or surrender of any policy; or
 - (7) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any policy; or
 - (8) Misrepresents any policy as being shares of stock.

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- B. False Information and Advertising Generally. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of its insurance business, which is untrue, deceptive or misleading.
- C. Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any insurer, and which is calculated to injure such insurer.
- D. Boycott, Coercion and Intimidation. Entering into any agreement to commit, or by any concerted action committing any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.
- E. False Statements and Entries.
 - (1) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of an insurer.
 - (2) Knowingly making any false entry of a material fact in any book, report or statement of any insurer or knowingly omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer, or knowingly making any false material statement to any insurance department official.
- F. Stock Operations and Advisory Board Contracts. Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to purchase insurance.
- G. Unfair Discrimination.
 - (1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such policy.
 - (2) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any accident or health insurance policy or in the benefits payable thereunder, or in any of the terms or conditions of such policy, or in any other manner.

Drafting Note: In the event that unfair discrimination in connection with accident and health coverage is treated in other statutes, this paragraph should be omitted.

- (3) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless such action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience.

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- (4) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to insure, refusing to renew, canceling or limiting the amount of insurance coverage on the residential property risk, or the personal property contained therein, solely because of the age of the residential property.
- (5) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex, marital status, race, religion or national origin of the individual; however, nothing in this subsection shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits. Nothing in this section shall prohibit or limit the operation of fraternal benefit societies.
- (6) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subsection shall not apply to accident and health insurance sold by a casualty insurer and, provided further, that this subsection shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract.
- (7) Refusing to insure solely because another insurer has refused to write a policy, or has cancelled or has refused to renew an existing policy in which that person was the named insured. Nothing herein contained shall prevent the termination of an excess insurance policy on account of the failure of the insured to maintain any required underlying insurance.
- (8) Violation of the state's rescission laws at [insert reference to appropriate code section].

Drafting Note: A state may wish to include this section if it has existing state laws covering rescission and to insert a reference to a particular code section.

H. Rebates.

- (1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any life insurance policy or annuity, or accident and health insurance or other insurance, or agreement as to such contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such policy or annuity or in connection therewith, any stocks, bonds or other securities of any company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.
- (2) Nothing in Subsection G, or Paragraph (1) of Subsection H shall be construed as including within the definition of discrimination or rebates any of the following practices:
 - (a) In the case of life insurance policies or annuities, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;
 - (b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

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- (c) Readjusting the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year; or
- (d) Engaging in an arrangement that would not violate Section 106 of the Bank Holding Company Act Amendments of 1972 (12 U.S.C. 1972), as interpreted by the Board of Governors of the Federal Reserve System, or Section 5(q) of the Home Owners' Loan Act, 12 U.S.C. 1464(q).
- (e) The offer or provision by insurers or producers, by or through employees, affiliates or third party representatives, of value-added products or services at no or reduced cost when such products or services are not ~~referenced~~ specified in the policy of insurance if the product or service:
 - (i) Relates to the insurance coverage; and
 - (ii) Is primarily ~~intended~~ designed to satisfy one or more of the following:
 - (I) Provide loss mitigation or loss control;
 - (II) Reduce claim costs or claim settlement costs;
 - (III) Provide education about liability risks or risk of loss to persons or property;
 - (IV) Monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;
 - (V) Enhance health;
 - (VI) Enhance financial wellness through items such as education ~~or~~ financial planning services;
 - (VII) Provide post-loss services;
 - (VIII) Incent behavioral changes to improve the health or reduce the risk of death or disability of a ~~customer~~ ~~client~~ (defined for purposes of this subsection as policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured or applicant); or
 - (IX) Assist in the administration of the employee or retiree benefit insurance coverage.
 - (iii) The cost to the insurer or producer offering the product or service to any given customer ~~must~~ ~~should~~ be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.
 - ~~(iii)~~(iv) If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that the ~~customer~~ ~~client~~ is provided with contact information to assist the ~~customer~~ ~~client~~ with questions regarding the product or service.

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~~(iv)~~(v) The commissioner may adopt regulations when implementing the permitted practices set forth in this statute/regulation to ensure consumer protection. Such regulations, consistent with applicable law, may address, among other issues, consumer data protections and privacy, consumer disclosure and unfair discrimination.

(vi) The availability of the value-added product or services must be based on fair documented/written objective evidence/criteria and offered in a manner that is not unfairly discriminatory. The documented/written criteria must be maintained by the insurer or producer and produced upon request of/by the Department.

(v) **Drafting Note:** States may wish to consider alternative language based on their filing requirements.

(vii) If an insurer or producer does not have sufficient criteria, but has a good-faith belief that the product or service meets the criteria in ~~(H)(2)(e)(i)~~(ii), the insurer or producer may provide the product or service in a fair-manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year/ reasonable period of time upon approval of the commissioner. An insurer or producer must notify the Department of such a pilot or testing program offered to consumers in this state prior to launching and may proceed with the program unless the Department objects within twenty-one days of notice.

(vi) The cost to the insurer or producer offering the product or service to any given client should be reasonable in comparison to that client's premiums or insurance coverage for the policy class.

Drafting Note: This Section is not intended to limit or curtail existing value-added services in the marketplace. It is intended to promote innovation in connection with the offering of value-added services while maintaining strong consumer protections.

(f) An insurer or a producer may:

(i) Offer or give non-cash promotional or advertising items or non-cash gifts, items, or services, including meals to, or charitable donations on behalf of a customer/client, in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost as long as the actual cost of the non-cash promotion or advertising items or meals or charitable donations, for all named or additional insureds in the policy in total, does not exceed an amount reasonably determined to be reasonable by the commissioner per policy year per person/client/term, and purchase or renewal of an insurance policy is not required. The offer must be made in a fair-manner that is not unfairly discriminatory, and The customer may not be required to contingent on the purchase, continued to purchase or renewal of a policy in exchange for the gift, item or service.;

Drafting Note: The committee would suggest that, at the time of the drafting of this model, the lesser of 5% of the current or projected policyholder premium or \$250 would be an appropriate limit, however specific prohibitions may exist related to transactions governed by the Real Estate Settlement Procedures Act of 1974 and the laws and regulations governing the Federal Crop Insurance Corporation Risk Management Agency.

~~(i)~~(ii) Offer or give non-cash gifts, items, or services including meals to or charitable donations on behalf of a customer, to commercial or institutional customer/clients in connection with the marketing, for the sale, purchase, or retention of contracts of insurance, as long as the cost is reasonable in comparison to the premium or proposed premium and the cost of the gift or service is not included in any

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amounts charged to another person or entity, ~~and/or~~ The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase or renew a policy in exchange for the gift, item or service.

~~(ii)~~(iii) Conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes are not valued in excess of a reasonable amount determined by the commissioner and the drawing or raffle is open to the public. The raffle or drawing must be offered in a ~~fair~~ manner that is not unfairly discriminatory. The customer ~~and~~ may not be required to ~~contingent on the purchase, continued~~ purchase or renewal of a policy in exchange for the gift, item or service.

Drafting Note: If a state wishes to limit (f) to a stated monetary limit the committee would suggest that, at the time of the drafting of this model, the lesser of 5% of the current or projected policyholder premium or \$250 would be an appropriate limit, however specific prohibitions may exist related to transactions governed by the Real Estate Settlement Procedures Act of 1974 and the laws and regulations governing the Federal Crop Insurance Corporation Risk Management Agency. States may want to consider a limit for commercial or institutional customers.

(3) An insurer, producer or representative of either may not offer or provide insurance as an inducement to the purchase of another policy or otherwise use the words “free”, “no cost” or words of similar import, in an advertisement.

Drafting Note: Section 104 (d)(2)(B)(viii) of the Gramm-Leach-Bliley Act provides that any state restrictions on anti-tying may not prevent a depository institution or affiliate from engaging in any activity that would not violate Section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System has stated that nothing in its interpretation on combined-balance discount arrangements is intended to override any other applicable state and federal law. FRB SR 95-32 (SUP). Section 5(q) of the Home Owners’ Loan Act is the analogous provision to Section 106 for thrift institutions. The Office of Thrift Supervision has a regulation 12 C.F.R. 563.36 that allows combined-balance discounts if certain requirements are met.

Drafting Note: Each state may wish to examine its rating laws to ensure that it contains sufficient provisions against rebating. If a state does not, this section may be expanded to cover all lines of insurance.

- I. Prohibited Group Enrollments. No insurer shall offer more than one group policy of insurance through any person unless such person is licensed, at a minimum, as a limited insurance representative. However, this prohibition shall not apply to employer/employee relationships, nor to any such enrollments.
- J. Failure to Maintain Marketing and Performance Records. Failure of an insurer to maintain its books, records, documents and other business records in such an order that data regarding complaints, claims, rating, underwriting and marketing are accessible and retrievable for examination by the insurance commissioner. Data for at least the current calendar year and the two (2) preceding years shall be maintained.
- K. Failure to Maintain Complaint Handling Procedures. Failure of any insurer to maintain a complete record of all the complaints it received since the date of its last examination under Section [insert applicable section]. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this subsection, “complaint” shall mean any written communication primarily expressing a grievance.
- L. Misrepresentation in Insurance Applications. Making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money or other benefit

from any provider or individual person.

M. Unfair Financial Planning Practices. An insurance producer:

- (1) Holding himself or herself out, directly or indirectly, to the public as a “financial planner,” “investment adviser,” “consultant,” “financial counselor,” or any other specialist engaged in the business of giving financial planning or advice relating to investments, insurance, real estate, tax matters or trust and estate matters when such person is in fact engaged only in the sale of policies. This provision does not preclude persons who hold some form of formal recognized financial planning or consultant certification or designation from using this certification or designation when they are only selling insurance. This does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.
- (2)
 - (a) Engaging in the business of financial planning without disclosing to the client prior to the execution of the agreement provided for in Paragraph 3, or solicitation of the sale of a product or service that
 - (i) He or she is also an insurance salesperson, and
 - (ii) That a commission for the sale of an insurance product will be received in addition to a fee for financial planning, if such is the case.
 - (b) The disclosure requirement under this subsection may be met by including it in any disclosure required by federal or state securities law.
- (3)
 - (a) Charging fees other than commissions for financial planning by insurance producer, unless such fees are based upon a written agreement, signed by the party to be charged in advance of the performance of the services under the agreement. A copy of the agreement must be provided to the party to be charged at the time the agreement is signed by the party.
 - (i) The services for which the fee is to be charged must be specifically stated in the agreement.
 - (ii) The amount of the fee to be charged or how it will be determined or calculated must be specifically stated in the agreement.
 - (iii) The agreement must state that the client is under no obligation to purchase any insurance product through the insurance producer or consultant.

Drafting Note: This subsection is intended to apply only to persons engaged in personal financial planning.

- (b) The insurance producer shall retain a copy of the agreement for not less than three (3) years after completion of services, and a copy shall be available to the commissioner upon request.

N. Failure to file or to certify information regarding the endorsement or sale of long-term care insurance. Failure of any insurer to:

- (1) File with the insurance department the following material:
 - (a) The policy and certificate;
 - (b) A corresponding outline of coverage; and
 - (c) All advertisements requested by the insurance department; or

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- (2) Certify annually that the association has complied with the responsibilities for disclosure, advertising, compensation arrangements, or other information required by the commissioner, as set forth by regulation.

O. Failure to Provide Claims History

- (1) Loss Information—Property and Casualty. Failure of a company issuing property and casualty insurance to provide the following loss information for the three (3) previous policy years to the first named insured within thirty (30) days of receipt of the first named insured’s written request:
 - (a) On all claims, date and description of occurrence, and total amount of payments; and
 - (b) For any occurrence not included in Subparagraph (a) of this paragraph, the date and description of occurrence.
- (2) Should the first named insured be requested by a prospective insurer to provide detailed loss information in addition to that required under Paragraph (1), the first named insured may mail or deliver a written request to the insurer for the additional information. No prospective insurer shall request more detailed loss information than reasonably required to underwrite the same line or class of insurance. The insurer shall provide information under this subparagraph to the first named insured as soon as possible, but in no event later than twenty (20) days of receipt of the written request. Notwithstanding any other provision of this section, no insurer shall be required to provide loss reserve information, and no prospective insurer may refuse to insure an applicant solely because the prospective insurer is unable to obtain loss reserve information.
- (3) The commissioner may promulgate regulations to exclude the providing of the loss information as outlined in Paragraph (1) for any line or class of insurance where it can be shown that the information is not needed for that line or class of insurance, or where the provision of loss information otherwise is required by law.

Drafting Note: Loss information on workers’ compensation is an example in some states of loss information otherwise required by law.

- (4) Information provided under Paragraph (2) shall not be subject to discovery by any party other than the insured, the insurer and the prospective insurer.

Drafting Note: This provision may not be required in states that have a privacy act that governs consumer access to this information. Those states considering applying this requirement to life, accident and health lines of insurance should first review their state privacy act related to issues of confidentiality of individual insured information.

P. Violating any one of Sections [insert applicable sections].

Drafting Note: Insert section numbers of any other sections of the state’s insurance laws deemed desirable or necessary to include as an unfair trade practice, such as cancellation and nonrenewal laws.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1947 Proc. 383, 392-400, 413 (adopted).

1960 Proc. II 485-487, 509-515, 516 (reprinted).

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1972 Proc. I 15, 16, 443-444, 491, 493-501 (amended and reprinted).
1977 Proc. I 26, 28, 211, 226-227 (amended).
1979 Proc. II 31, 34, 38, 39, 525 (amended).
1985 Proc. I 19, 39, 85-86 (amended).
1989 Proc. II 13, 21, 129-130, 132, 133-140 (amended and reprinted).
1990 Proc. I 6, 25, 122, 146 (changed name of model).
1990 Proc. II 7, 13-14, 160, 169-177 (amended and reprinted).
1991 Proc. I 9, 16, 192-193, 196-203 (amended and reprinted).
1993 Proc. I 8, 136, 242, 246-254 (amended and reprinted).
1993 Proc. 1st Quarter 3, 34, 267, 274, 276 (amended).
2001 Proc. 2nd Quarter 7, 9, 836, 843-853 (amended and reprinted).

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