

MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

Market Regulation and Consumer Affairs (D) Committee Aug. 15, 2024, Minutes

Market Regulation and Consumer Affairs (D) Committee July 29, 2024, Minutes
(Attachment One)

Revised Charge Market Actions (D) Working Group (Attachment One-A)

Amendment to the Definition of External Replacement of Affiliated Company Policies in the MCAS Life and Annuity Blanks (Attachment One-B)

Market Analysis Procedures (D) Working Group Aug. 5, 2024, Minutes (Attachment Two)

Market Analysis Procedures (D) Working Group June 24, 2024, Minutes (Attachment Two-A)

Market Analysis Procedures (D) Working Group April 29, 2024, Minutes (Attachment Two-A1)

Market Conduct Annual Statement Blanks (D) Working Group July 11, 2024, Minutes (Attachment Three)

Market Conduct Annual Statement Blanks (D) Working Group June 6, 2024, Minutes (Attachment Three-A)

Market Conduct Annual Statement Blanks (D) Working Group May 1, 2024, Minutes (Attachment Three-A1)

Market Conduct Annual Statement Blanks (D) Working Group April 2, 2024, Minutes (Attachment Three-A1a)

Market Conduct Annual Statement Blanks (D) Working Group April 19, 2024, Minutes (Attachment Three-A1b)

Market Conduct Examination Guidelines (D) Working Group July 30, 2024, Minutes (Attachment Four)

Market Conduct Examination Guidelines (D) Working Group May 22, 2024, Minutes (Attachment Four-A)

Market Regulation Certification (D) Working Group June 24, 2024, Minutes (Attachment Five)

Market Regulation Certification (D) Working Group April 29, 2024, Minutes (Attachment Five-A)

Speed to Market (D) Working Group July 30, 2024, Minutes (Attachment Six)

Draft: 8/20/24

Market Regulation and Consumer Affairs (D) Committee
Chicago, Illinois
August 15, 2024

The Market Regulation and Consumer Affairs (D) Committee met in Chicago, IL, Aug. 15, 2024. The following Committee members participated: Jon Pike, Chair (UT); Barbara D. Richardson, Co-Vice Chair (AZ); Trinidad Navarro, Co-Vice Chair (DE); Karima M. Woods represented by Sharon Shipp (DC); Dean L. Cameron (ID); Sharon P. Clark (KY); Timothy J. Temple (LA); Robert L. Carey represented by Timothy N. Schott (ME); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Robert Croom (NC); Jon Godfread represented by Johnny Palsgraaf (ND); Scott Kipper represented by Nick Stosic (NV); Michael Humphreys represented by David Buono (PA); and Cassie Brown represented by Matthew Tarpley (TX). Also participating were: Larry D. Deiter (SD); Rebecca Nichols (VA); John Haworth (WA); and Rebecca Rebholz (WI).

1. Adopted its July 29 Minutes

The Committee met July 29. During this meeting, it took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted revised charges for the Market Actions (D) Working Group; 3) adopted an amendment to the definition of external replacement of affiliated company policies in the Market Conduct Annual Statement (MCAS) life and annuity blanks; and 4) adopted a recommendation to collect MCAS data from fraternal.

Commissioner Navarro made a motion, seconded by Director Cameron, to adopt the Committee's July 29 minutes (Attachment One). The motion passed unanimously.

2. Heard a Presentation from the AEPI on Insurer Automobile Claim Adjusting Practices

Erica Eversman (Automotive Education & Policy Institute—AEPI) presented on insurance company automobile claims adjusting practices on first-party and third-party claims. She said first-party claims are adjusted according to the policy language, and third-party claims are adjusted according to negligence laws, which are not subject to the same policy limitations as first-party claims. She said insurers will use improper tactics to reduce the amounts owed on first-party and third-party automobile damage claims.

Eversman said insurers systematically undervalue the actual cash value (ACV) of total losses and make offers less than the ACV by: 1) using selective comparable vehicle valuations; 2) “buy here/pay here” dealer prices, which are priced lower in order to encourage purchases with high interest rates; and 3) manipulating software cost determinations. She said insurers often refuse to consider comparable vehicle prices from sources such as CarMax, Carvana, Craigslist, Facebook Marketplace, Kelley Blue Book, Vroom, and auction sites. Additionally, she said insurers have removed or are currently seeking to remove the appraisal clause from their policies. This limits any recourse for the insured to pursue alternative dispute resolution options, resulting in the necessity to file a lawsuit to recover the true ACV for a total loss claim. She said the losses often have values above small claim court limits and that plaintiff attorneys will rarely take on cases for solely property damage.

Eversman said insurers reduce partial loss claim payments by: 1) manipulating the prevailing market labor rates in estimating software; 2) requiring the use of non-original equipment manufacturer (OEM) parts or salvage parts in their estimates of damage; and 3) encouraging third-party claimants to use their own insurance, thus subjecting the claimants to the policy limitations of their insurance. Eversman said that auto repair shops have garage keeper legal liability (GKLL) policies that require the use of OEM parts and other limitations that conflict with the estimations of the automobile insurance carriers.

Eversman said insurers negotiate prices nationwide for subcontractor work and demand the use of the subcontractors for sublet work. She said the repair shop is liable for the sublet work, not the insurer.

Eversman recommended the state insurance regulators: 1) investigate insurer use of total loss software; 2) require insurers to notify insureds in writing of remedy provisions elected prior to repair; 3) require insurers to notify consumers and pay to replace improper imitation parts; 4) require insurers to reflect the increase in labor rate in the labor rate field of estimation software; 5) prohibit insurers from using network shop contract rates when determining prevailing market rates; 6) prohibit insurers from including indemnification beyond negligence in network shop agreements; and 7) investigate demands that claimants use their own insurance.

Gendron said Rhode Island requires its repair shops to have a GKLL policy, and they will also generally have a general liability (GL) insurance policy. He asked which policy would cover the actual repairs but exclude repairs using a non-OEM part. Eversman said that would typically be the GKLL policy. Gendron asked if the GKLL carrier is considering the use of non-OEM parts as a breach of contract. Eversman said it would. Gendron asked if Eversman had case law. She said most are resolved with a settlement, and there may not be case law, but she would look.

Cabinet Executive Officer (CEO) Richardson said that one of the recommendations made by Eversman was to require insurers to notify customers when a non-OEM part is decertified after it had been installed. She asked if that means that insurers have to follow the life of every car on which non-OEMs were paid for by them and replace every part that is ever decertified. CEO Richardson also asked if Eversman knew the additional cost the insurers would then have to take on. Eversman said insurers that have said the non-OEM parts are appropriate should replace them, especially if the de-certified part creates a safety issue. She said insurers already say they will, but they do not. She said the certification and de-certification of the parts they use are made by an organization that insurers created. Eversman said that would likely be at a high cost, but the insurers have held themselves out to that standard by insisting on non-OEM parts.

3. Adopted its Task Force and Working Group Reports

A. Antifraud (D) Task Force

Commissioner Navarro said the Task Force met Aug. 14 and took the following action: 1) adopted its Spring National Meeting minutes; and 2) discussed its 2024 charges in preparation for reviewing and considering adoption of its 2025 proposed charges.

Commissioner Navarro said the Task Force also adopted a report from the Improper Marketing of Health Insurance (D) Working Group. He said the Working Group heard from the Centers for Medicare & Medicaid Services (CMS) and America's Health Insurance Plans (AHIP) about the current issues consumers are experiencing with continued unauthorized agent transfers of policies. The Working Group also heard from the NAIC regarding current congressional actions and received an update on the marketing issues of the Affordable Care Act (ACA).

Additionally, Commissioner Navarro said the Task Force received an update from the Antifraud Technology (D) Working Group. He said the Working Group will continue assisting with the implementation of the NAIC's new web service for the Online Fraud Reporting System (OFRS). The Working Group will also work with state fraud directors, the NAIC, and the National Insurance Crime Bureau (NICB).

Committee Navarro said the Task Force also heard reports on antifraud activity from the Coalition Against Insurance Fraud (CAIF) and the NICB.

B. Market Information Systems (D) Task Force

LeDuc said the Market Information Systems (D) Task Force met Aug. 2 and heard reports from the Market Information Systems Research and Development (D) Working Group and the Market Analysis Procedures (D) Working Group.

LeDuc said the Market Information Systems Research and Development (D) Working Group approved two requests for additional codes and functionality on the Complaints Database System (CDS). The Working Group approved preliminary analysis to begin adding a claim handling reason code for “balanced billings” and adding “insurance companies” in the drop-down description of the complainant in the State Based Systems (SBS) External Healthcare Review (EHR) portal.

LeDuc said the Market Analysis Procedures (D) Working Group reported that it formed a Market Analysis Prioritization Tool (MAPT) Recommendations Subgroup to conduct a detailed review of the MAPT.

LeDuc said the Task Force also heard a report from NAIC Information Technology Group (ITG) staff on the status of *State Connected* projects that touch on the market information systems (MIS), as well as other projects requested by the Market Information Systems Research and Development (D) Working Group.

C. Producer Licensing (D) Task Force

Director Deiter said the Producer Licensing (D) Task Force met Aug. 12 and May 9. During its Aug. 12 meeting, the Task Force received comments on proposed amendments to the *Public Adjuster Licensing Model Act* (#228). He said the model is being amended to strengthen regulatory standards governing the conduct of public adjusters for the following four issues: 1) individuals acting as unlicensed public adjusters; 2) contractors who are also acting as public adjusters on the same claim; 3) inappropriate assignment of benefit rights; and 4) excessive fees charged by public adjusters. He said the most contentious issue is the amendments to Section 14, which provide that a public adjuster shall not charge more than 10% for any catastrophic claim settlement and no more than 15% for any insurance claim settlement. He said the Task Force is seeking additional comments on the model through Aug. 30.

Director Deiter also said that during its Aug. 12 meeting, the Task Force received additional comments on the draft 1033 waiver template focused on whether individuals should be required to submit a waiver request to non-resident states and the definition of “conviction.” He said NAIC staff are working with a small group of subject matter experts (SMEs) to review the comments and issue a revised draft of the template in the next 45 days for the Task Force to consider for adoption.

Additionally, Director Deiter said the Task Force discussed proposed amendments to the NAIC Uniform Producer Licensing Applications and the proposed cost and timeline for implementing the amendments adopted by the Producer Licensing Uniformity (D) Working Group. He said NAIC staff will circulate the proposed revisions and suggested cost and timeline for implementation for a 30-day comment period.

Director Deiter said the Task Force also received a report from the National Insurance Producer Registry (NIPR) Board of Directors. He said NIPR and the NAIC continue to provide producer licensing zone training for the states. The program covers producer licensing practices, as well as current and emerging industry issues, and encourages dialogue among the state licensing peer regulators. He said any state wanting more information on this training should contact Laurie Wolf (NIPR) or Tim Mullen (NAIC).

Director Dieter said that during its May 9 meeting, the Task Force took the following action: 1) discussed the template for the 1033 waiver process; and 2) received reports from the Adjuster Licensing (D) Working Group,

Producer Licensing Uniformity (D) Working Group, Public Adjuster Licensing (D) Working Group, and Uniform Education (D) Working Group. He said the Task Force also received comments from industry trade organizations seeking changes to the *State Licensing Handbook* to clarify that pre-licensing education is not required. Industry comments also encourage states to provide examinations in additional languages and recognize the use of online examinations.

D. Market Analysis Procedures (D) Working Group

LeDuc said the Market Analysis Procedures (D) Working Group met Aug. 5, June 24, and April 29. She said that during these meetings, the Working Group: 1) adopted the pet insurance MCAS ratios that will be publicly posted annually after each MCAS reporting period; and 2) adopted a requirement for fraternal organizations to begin reporting MCAS annually.

LeDuc said the Working Group followed up on last fall's interviews of 26 jurisdictions regarding their use of the MAPT for their baseline market analysis. She said the interviews indicated that the MAPT is not effectively prioritizing companies for market analysis. Hence, the Working Group formed a MAPT Recommendations Subgroup to review the MAPT, consider the suggestions received, and develop a set of recommendations for improving MAPT that the Working Group can approve. The subgroup is beginning its review of the MAPT with the private passenger automobile line of business. She said the subgroup plans to finish its work prior to the Fall National Meeting.

Le Duc said the Working Group is continuing its series of educational lunch-and-learn sessions for new and experienced analysts. She said that during these sessions, state insurance market analysts heard from North Carolina and Utah about how they conduct MAPT analyses, and an NAIC financial analyst provided insights into the financial measures used in the MIS tools. She said the Working Group's next lunch-and-learn session will be on Market Analysis Review System (MARS) Level 1 and Level 2 analyses.

E. Market Conduct Annual Statement Blanks (D) Working Group

Rebholz said that since the Spring National Meeting, the Working Group identified and approved some non-substantive MCAS items that did not require approval according to the timeline provided in the MCAS Revision Process Guidelines. She said those items will be implemented for the 2024 MCAS data year:

- Two instances of duplicate data elements were identified during a review of the short-term, limited-duration (STLD) MCAS blank: Data elements #64 and #74 ask for covered lives impacted by cancellations initiated by the policyholder/certificate holder during the period. The Working Group voted to remove data element #64 and retain data element #74. Additionally, data elements #69 and #75 ask for covered lives impacted by cancellations resulting from nonpayment. The Working Group voted to remove data element #69 and retain data element #75
- Two instances of duplicate data elements were identified in the other health MCAS blank: Data elements #67 and #71 ask for the number of claims denied, rejected, or returned because the maximum benefit has been exceeded. The Working Group voted to approve the removal of data element #71 and retain data element #67. The Working Group has ongoing discussions related to the second instance of duplicate data elements.
- The Working Group also adopted an edit to the definition of "lawsuit" in the MCAS homeowners and private passenger auto (PPA) data call and definitions documents. Rebholz said that "For non-claims related lawsuits" was added to the beginning of the first bullet point within the lawsuit definition. The bullet now reads, "For non-claims related lawsuits, include only lawsuits brought by an applicant for insurance, a policyholder or claimant as a plaintiff against the reporting insurer as a defendant." Rebholz said the original intent was for this bullet point to apply only to non-claims related lawsuits.

Rebholz said that in addition to the non-substantive items, the Working Group adopted edits to the definition of external replacement of affiliated company policies in the MCAS life and annuity blanks. She said this edit was adopted by the Committee last month.

Rebholz said the Working Group formed an SME group to address the federal government's new rules limiting STLD medical plans to 90 days with a month extension. The SME group recommended leaving the STLD MCAS blank as is for 2024 and 2025 because there will still be some policies in effect under the old rules in those years. The Working Group agreed this was a good course of action and will review it again at a later date.

Rebholz said the Working Group continues to focus on reviewing the current blanks, data call, and definitions of the other health, pet insurance, STLD, and PPA MCAS lines of business. Additionally, updated definitions for accelerated underwriting (AU) reporting within life MCAS blank are also being considered.

F. Market Conduct Examination Guidelines (D) Working Group

Tarpley said the Market Conduct Examination Guidelines (D) Working Group met most recently July 30. During this meeting, the Working Group adopted its May 22 minutes.

Tarpley said the Working Group also heard an update on the progress made by pet insurance SMEs on the development of a new pet insurance examination chapter in the *Market Regulation Handbook* and the development of new pet insurance-related standardized data requests (SDRs). The SMEs are creating new examiner guidance based on the *Pet Insurance Model Act* (#633).

Tarpley said the travel insurance SMEs are updating the travel insurance examination chapter of the *Market Regulation Handbook* to incorporate new review procedures and criteria in marketing and sales examination standards 3, 4, 8, and 11 and underwriting and rating standard 1. He said the SMEs are creating the guidance based on the *Travel Insurance Model Act* (#632).

Tarpley said updates to the life and annuity examination chapter of the *Market Regulation Handbook* reflect the revisions to *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest Sold on or After December 14, 2020* (AG 49-A). He said an exposure draft of the updated chapter will be distributed in August.

Tarpley said the Working Group is continuing to monitor the work of the Innovation, Cybersecurity, and Technology (H) Committee and its workstreams to learn what initiatives they are discussing that may relate to regulator guidance in the *Market Regulation Handbook*.

Tarpley said that at its July 30 meeting, the Working Group discussed the applicability of the NAIC Connect platform as a means to potentially address the Working Group's charge to develop a shared regulator-only collaborative space where market regulators can share state insurance regulator tools.

G. Market Regulation Certification (D) Working Group

Haworth said the Market Regulation Certification (D) Working Group met Aug. 12 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to enable the members and interested state insurance regulators to freely discuss internal department processes that are included with the Voluntary Market Regulation Certification Program. He said the Working Group completed self-certification reviews of two fictional jurisdictions—each with unique concerns that impacted how they complied with the different certification requirements. He said this led to good conversations and was helpful in familiarizing jurisdictions with conducting their own self-certification reviews.

Haworth said that in meetings earlier this year, the Working Group: 1) solicited self-certification reviews to be submitted prior to the Fall National Meeting; 2) discussed the structure of peer review groups; and 3) planned for additional training opportunities at the NAIC Insurance Summit. Haworth also said the Working Group is now using the Committee's Connect page to share documents related to certification.

H. Speed to Market (D) Working Group

Nichols said the Speed to Market (D) Working Group met July 30.

Nichols said the Working Group considered suggestions for the product coding matrix (PCM) and the uniform transmittal document (UTD). She said that due to the Interstate Insurance Product Regulation Commission's (Compact's) adoption of uniform standards for individual deferred index-linked variable annuities, the Compact submitted a suggestion to add type of insurance (TOI) codes and sub-TOI codes to properly identify those products in the System for Electronic Rates & Forms Filing (SERFF). She said the Working Group adopted the Compact's suggestion, and the Filing Solutions team will begin updating SERFF to include the new codes.

Nichols said the Working Group also heard an update from Bridget Kieras (NAIC) on the SERFF Modernization Project, and George Bradner (CT) and Beth Drysdale (CT) gave an informative presentation about preparing for and using machine learning (ML) for property and casualty (P/C) form reviews. She said the presentation slide decks are posted to the Working Group's web page. Nichols said Jeremy Chance (NAIC) also updated the Working Group on the 2025 PCM updates.

Nichols also noted that the recently adopted 2024 *Product Filing Review Handbook* was posted to the NAIC Publications web page July 18. She said the *Product Filing Review Handbook* can be downloaded at no cost. She said it can also be found on the Committee's Connect page in the "Handbooks" folder. She said that as part of the work on the *Product Filing Review Handbook*, the NAIC Speed to Market Filing Suggestion Form was also updated and posted to the SERFF web page.

Commissioner Navarro made a motion, seconded by Director Cameron, to adopt the reports of the following task forces and working groups: 1) Antifraud (D) Task Force; 2) Market Information Systems (D) Task Force; 3) Producer Licensing (D) Task Force; 4) Market Analysis Procedures (D) Working Group (Attachment Two); 5) Market Conduct Annual Statement Blanks (D) Working Group (Attachment Three); 6) Market Conduct Examination Guidelines (D) Working Group (Attachment Four); 7) Market Regulation Certification (D) Working Group (Attachment Five); and 8) Speed to Market (D) Working Group (Attachment Six). The motion passed unanimously.

5. Discussed Other Matters

Nikhail Nigam (NAIC) said that in July, the International Association of Insurance Supervisors (IAIS) began a public consultation concerning its application paper on how to achieve fair treatment of diverse consumers. He said the paper was prepared by the IAIS's Market Conduct Working Group (MCWG) and focuses on the customer-facing aspects of how insurers and intermediaries are conducting the business of insurance. He said it guides supervisors, insurers, and intermediaries on a diversity, equity, and inclusion (DE&I) perspective to interpret and fulfill existing requirements in Insurance Core Principle (ICP) 19 (Conduct of Business) so that fair treatment is achieved for diverse consumers, not just consumers who fit a typical or dominant customer profile. The IAIS held a public background session on the application paper, and the recording is available on its website.

Nigam said that NAIC staff will review and prepare draft comments for consideration as part of the public consultation process. He said the Committee will be asked to review the application paper and proposed

comments and provide input by the end of August. All comments will be considered by the International Insurance Relations (G) Committee during its next meeting on Sept. 24.

Nigam said the paper's scope is distinct from but complementary to the application paper on DE&I authored by the IAIS's Governance Working Group, which was focused on the relevance of DE&I within an insurer's governance, risk management, and corporate culture. That paper recently concluded its public consultation and is being finalized.

Gendron asked that the MCWG application paper be posted to the Committee's web page once the IAIS adopts it. Commissioner Pike said that it would be.

Having no further business, the Market Regulation and Consumer Affairs (D) Committee adjourned.

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Draft: 8/27/24

Market Regulation and Consumer Affairs (D) Committee
Virtual Meeting
July 29, 2024

The Market Regulation and Consumer Affairs (D) Committee met July 29, 2024. The following Committee members participated: Jon Pike, Chair (UT); Barbara D. Richardson, Co-Vice Chair (AZ); Trinidad Navarro, Co-Vice Chair (DE); Dean L. Cameron (ID); Sharon P. Clark (KY); Robert L. Carey represented by Connie Mayette (ME); Chlora Lindley-Myers represented by Jo LeDuc (MO); Mike Causey represented by Robert Croom (NC); Scott Kipper (NV); and Cassie Brown represented by Matthew Tarpley (TX). Also participating were: Erica Weyhenmeyer (IL) and Rebecca Rebholz (WI).

1. Adopted its Spring National Meeting Minutes

Director Cameron made a motion, seconded by Commissioner Clark, to adopt the Committee's March 18 minutes (*see NAIC Proceedings – Spring 2024, Market Regulation and Consumer Affairs (D) Committee*). The motion passed unanimously.

2. Adopted Revised Charges for the Market Actions (D) Working Group

Weyhenmeyer said the Market Actions (D) Working Group met July 9 to discuss and adopt revised charges. In addition to its current charge, the Working Group added a charge to: "Facilitate interstate communication and coordinate collaborative state regulatory activities involving non-traditional market actions through the Coordinated Market Investigations Subgroup (CMIS)."

Weyhenmeyer said that on occasion, market conduct issues will be brought to the Working Group that do not involve traditional risk-bearing entities—such as non-licensed entities selling insurance products—or for which the appropriate department of insurance personnel to address an issue are not the market examiners but the departments' legal teams. In those cases, the various state laws and authorities could be quite different. Weyhenmeyer said that with this additional charge, the Working Group will now have a subgroup that will be called on to discuss and advise the Working Group whenever these non-traditional situations arise. The subgroup will be chaired by a Working Group member, but the membership of the subgroup will vary depending on the issue.

Weyhenmeyer said that at the Working Group's annual meeting, it will draft more detailed guidelines to be included in the Working Group's policies and procedures.

Commissioner Pike noted that the chair of the CMIS will be Matt Gendron (RI).

Commissioner Richardson made a motion, seconded by Commissioner Navarro, to adopt the revised charge (Attachment One-A) of the Market Actions (D) Working Group. The motion passed unanimously. Commissioner Pike said the charge will be forwarded to the Executive (EX) Committee for consideration at the Summer National Meeting.

3. Adopted an Amendment to the Definition of External Replacement of Affiliated Company Policies in the MCAS Life and Annuity Blanks

Rebholz said the Market Conduct Annual Statement Blanks (D) Working Group received a proposal from Brett Bache (RI) requesting a review and update of the Life and Annuity Market Conduct Annual Statement (MCAS) definition for replacements of affiliated company policies. Bache had noted that the NAIC's *Life Insurance and*

Annuities Replacement Model Regulation (#613) refers to replacements within the same holding company as “internal replacements.” However, the life and annuity MCAS data call and definitions categorizes intra-holding company replacements as external replacements. Rebholz said the Working Group approved the definitional update to allow consistency with the model regulation. She said the approved definition reads as follows: “An internal replacement of an affiliated company policy is when the policy and/or annuity to be replaced was issued by a company affiliated to the MCAS reporting company.”

She said if the revised definition is adopted by the Committee in this meeting, the update will go into effect for the 2025 MCAS data year reported in 2026.

Birny Birnbaum (Center for Economic Justice—CEJ) asked if this eliminated the reporting of external replacements. Rebholz said it did not. She said it only changes the terminology used to identify replacements of affiliated companies of the reporting company.

Commissioner Clark made a motion, seconded by Commissioner Kipper, to adopt the amendment to the definition of external replacement of affiliated company policies in the MCAS life and annuity blanks (Attachment One-B). The motion passed unanimously.

4. Adopted a Recommendation to Collect MCAS Data from Fraternal

LeDuc said the Market Analysis Procedures (D) Working Group met April 29 to adopt the requirement for fraternal organizations to annually report MCAS data to participating jurisdictions.

LeDuc said that since the inception of MCAS in the early 2000s, fraternal organizations have been exempt from filing MCAS for several reasons, including because they are not uniformly regulated across states, and they file their financial annual statements on a fraternal statement type.

Le Duc said that in 2019, fraternal began filing on life, health, and property/casualty (P/C) statement types, which opened up the ability for fraternal to use the MCAS submission portal. In 2019, the Working Group considered, but declined to require fraternal to file MCAS. In 2023, the Working Group received a request from a member to reconsider the inclusion of fraternal in MCAS.

LeDuc said the Working Group’s analysis showed that while fraternal only write about 2.5% of all life insurance business, that 2.5% is nearly \$10 billion in premium, and several fraternal companies generate more life insurance business than many standard life companies that have been required to file MCAS from the beginning. She said that after discussions, the Working Group adopted a proposal to require fraternal to file MCAS. The premium threshold for fraternal will be the same \$50,000 premium required for all companies. She said there are some states that are unable to require fraternal to file MCAS, and they have the ability to waive the requirement for fraternal writing in their jurisdiction.

Le Duc said that if the Committee adopted the requirement today, fraternal companies would begin filing in 2026, covering their 2025 data.

LeDuc made a motion, seconded by Commissioner Navarro, to collect MCAS data from fraternal organizations. The motion passed unanimously.

5. Discussed Other Matters

Commissioner Pike said the Committee plans to meet in open session on Thursday, Aug. 15, from 8:30–9:30 a.m. during the NAIC Summer National Meeting. He said that in addition to the standard reports from the Task Forces and Working Groups, the Committee will hear a presentation on auto claim settlement practices from Erica Eversman, who is an NAIC Consumer Representative with the Automotive Education & Policy Institute (AEPI).

Birnbaum noted that the Committee is charged with monitoring insurers' and producers' underwriting and market practices and the conditions of insurance marketplaces, including urban markets, to identify specific market conduct issues of importance and concern and to hold public hearings on these issues at the NAIC national meetings, as appropriate. He asked if the Committee had plans to hold any public hearings.

Commissioner Pike said this charge has been discussed, but no public hearings are planned. He said if there are suggestions for an issue that would benefit from a public hearing, they can be submitted to the Committee.

Having no further business, the Market Regulation and Consumer Affairs (D) Committee adjourned.

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Draft date: 7/9/24

Adopted by the Executive (EX) Committee/Plenary, XX, 2024

Adopted by the Market Regulation and Consumer Affairs (D) Committee, July 29, 2024

Adopted by the Market Actions (D) Working Group, July 2, 2024

Revision marks reflect proposed amendments to the 2024 charges.

The **Market Actions (D) Working Group** will:

- A. Facilitate interstate communication and coordinate collaborative state regulatory actions.
- B. Facilitate interstate communication and coordinate collaborative state regulatory activities involving non-traditional market actions through the Coordinated Market Investigations Subgroup.

NAIC MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP Changes/Additions to Approved Blanks and Data Call and Definitions Proposal Submission Form

NAIC USE ONLY

Proposal Submission Date: 2/28/2024	
Proposed Effective Data Year for Reporting: 2025 Data Year	
Proposed <input checked="" type="checkbox"/> Substantive Change <input type="checkbox"/> Non-Substantive Change/Clarification	
Proposal Number	2024.7
Proposal Status	<u>All Submissions</u> <input checked="" type="checkbox"/> Received – Date 3/25/2024 <input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Rejected by MCAS Blanks WG Chair <input checked="" type="checkbox"/> Posted to Web Page for Public Exposure/Comment – Date 4/3/2024 <input type="checkbox"/> Referred to Another NAIC Group – Date Click or tap to enter a date. – Name of Group Click or tap here to enter text. <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Modified <input type="checkbox"/> Rejected <input type="checkbox"/> Deferred by WG – Date 5/1/2024 <u>Substantive Revisions</u> <input type="checkbox"/> Adopted <input type="checkbox"/> Rejected by D Committee – Date Click or tap to enter a date. <input type="checkbox"/> Adopted <input type="checkbox"/> Rejected by EX/Plenary – Date Click or tap to enter a date. <input type="checkbox"/> Other – Date Click or tap to enter a date. Specify Click or tap here to enter text.
NAIC Staff Input	Click or tap here to enter text.

Proposal Contact Information

Name of Contact Person	Brett Bache
Name of Organization	Rhode Island Insurance Division
Email Address	Brett.bache@dbr.ri.gov
Phone Number	401-462-9612
Affiliation Type	<input checked="" type="checkbox"/> State Regulator <input type="checkbox"/> NAIC Staff <input type="checkbox"/> Other Regulator <input type="checkbox"/> Reporting Company <input type="checkbox"/> Industry Trade Association <input type="checkbox"/> Consumer Representative <input type="checkbox"/> Other

PROPOSAL IS FOR: Data Element Data Definitions Data Validation

APPLICABLE LINE(S) OF BUSINESS:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Annuity | <input type="checkbox"/> Lender Placed Auto and Home | <input type="checkbox"/> Private Flood |
| <input type="checkbox"/> Disability Income | <input checked="" type="checkbox"/> Life | <input type="checkbox"/> Private Passenger Auto |
| <input type="checkbox"/> Health | <input type="checkbox"/> Long-Term Care | <input type="checkbox"/> Travel |
| <input type="checkbox"/> Homeowners | <input type="checkbox"/> Other Health | <input type="checkbox"/> STLD |

PROVIDE A CONCISE STATEMENT OF THE PROPOSED CHANGE:

Under the [Life Insurance and Annuities Replacement Model regulation \[content.naic.org\]](https://content.naic.org), the incontestability provision in Section 5. B states: “In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, allow credit for the period of time that has elapsed under the replaced policy’s or contract’s incontestability and suicide period up to the face amount of the existing policy or contract.” The interpretation is that the model regulation is calling replacements within the same holding company “internal replacements.” However, the Life and Annuity MCAS Blanks appears to categorize these intra-holding company replacements as an external replacement, as the definition for an “External Replacement of Affiliated Company Policies” states: “An external replacement of an affiliated company policy is when

NAIC MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP
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the policy and/or annuity to be replaced was issued by a company affiliated to the MCAS reporting company.” If it is determined that a change is needed, then the definition of an “External Replacement of Affiliated Company Policies” would need to be revised and the corresponding data element as well.

Current Definition

External Replacement of Affiliated Company Policies – An external replacement of an affiliated company policy is when the policy and/or annuity to be replaced was issued by a company affiliated to the MCAS reporting company.

Proposed Definition

Internal Replacement of Affiliated Company Policies – An **internal** replacement of an affiliated company policy is when the policy and/or annuity to be replaced was issued by a company affiliated to the MCAS reporting company.

PROVIDE THE REASON FOR THE CHANGE:

To ensure that the Life and Annuity data call reflects the language used in the Life Insurance and Annuities Replacement Model Regulation.

IF ADDITIONAL DOCUMENTS CONTAIN DEFINITIONS, BLANK MOCK-UPS, ETC, PROVIDE A LISTING OF THESE DOCUMENTS BELOW. SEND THE LISTED DOCUMENTS TO NAIC STAFF ALONG WITH THE COMPLETED FORM:

Click or tap here to enter text.

Draft Pending Adoption

Attachment Two
Market Regulation and Consumer Affairs (D) Committee
8/15/24

Draft: 8/12/24

Market Analysis Procedures (D) Working Group
Virtual Meeting (*in lieu of meeting at the Summer National Meeting*)
August 5, 2024

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Aug. 5, 2024. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Teri Ann Mecca (AR); Tolanda Coker (AZ); Don McKinley (CA); Steve DeAngelis (CT); Lori Cunningham (KY); Mary Lou Moran (MA); Raymond Guzman (MD); Timothy N. Schott (ME); Jeff Hayden (MI); Robert McCullough (NE); Ralph Boeckman and Erin Porter (NJ); Guy Self (OH); Zach Palank (OK); Karen Veronikis (PA); Brett Bache (RI); Melissa Gerachis (VA); and Karla Nuissl (VT). Also participating was Brad Gerling (MO).

1. Adopted its June 24 Minutes

The Working Group met June 24 and took the following action: 1) adopted its April 29 minutes and 2) reviewed the summary report of the interviews of 26 jurisdictions regarding their use of the Market Analysis Prioritization Tool (MAPT).

Haworth made a motion, seconded by Veronikis, to adopt the Working Group's June 24 minutes (Attachment Two-A). The motion passed unanimously.

2. Received an Update from the MAPT Recommendations Subgroup

LeDuc said that during the last meeting, the Working Group asked for volunteers to participate in a MAPT recommendations subgroup to consider ways to improve the effectiveness of the MAPT. She said this arose from the Working Group's discussions about the ways that NAIC jurisdictions are using MAPT and suggestions that came from the interviews with 26 jurisdictions.

LeDuc said the subgroup has members from Arizona, Colorado, Florida, Indiana, Maryland, Massachusetts, Ohio, Pennsylvania, South Dakota, and Wyoming. She said it meets every other week and has already met twice. The method of the subgroup is to work its way through all the sections included in the MAPT and discuss each data element's usefulness and any additional data elements that may be of assistance to analysts or increase the accuracy of the prioritization score. The subgroup is beginning with the private passenger auto (PPA) line of business. She said the subgroup is open to the possibility of using tools that may be more robust than a Microsoft Excel spreadsheet but has not reached that stage of its discussions yet.

LeDuc said the subgroup considered the complaints section of the MAPT during its first meeting and the Regulatory Information Retrieval System (RIRS) section during its second meeting. She said some of the recommendations it has considered for complaints are adding a year-to-date field, adding data elements for complaints per "x" number of dollars or exposure units, and having a percentage of state to national complaints.

LeDuc said that in the RIRS section, the subgroup is considering providing just the total counts of RIRS actions, merging the substantive and non-substantive RIRS, and not including RIRS in the prioritization scoring. The subgroup is also recommending the addition of restitution amounts in the same way the MAPT already provides penalty data and providing a count of the number of states that have reported a RIRS action against a company.

Draft Pending Adoption

Attachment Two
Market Regulation and Consumer Affairs (D) Committee
8/15/24

LeDuc said Randy Helder (NAIC) is keeping a log of all the recommendations and will share the log with any state insurance regulator who would like a copy.

3. Discussed the Lunch-and-Learn Schedule

LeDuc proposed that the Working Group host a lunch-and-learn session on doing Market Analysis System (MARS) Level 1 analyses. She said Helder has reached out to a few states that do the most Level 1 analyses year by year. She said she would like to get a couple of state insurance regulators who would be willing to each take 20 minutes to: 1) talk about how they interpret the information presented to them by picking some questions or sections from recent reviews where they had significant findings; and 2) explain what it was about the data that caught their eye and why it was of concern to them.

LeDuc said the lunch-and-learn will be late in August or soon after the Labor Day weekend and asked that suggestions be sent to Helder.

4. Discussed Other Matters

Guzman said there appears to be individual and group accident and health (A&H) data missing from the most recent MAPT. He said this also impacts the MARS data. He asked if anyone else had noticed this and what the reason would be. Teresa Cooper (NAIC) said there was a change in the most recent financial annual statement life statement type, which removed some of these lines from the state page. The premium can be reported on the Supplemental Health Care Exhibit (SCHE), but some companies have not been reporting on the SHCE. She said NAIC staff are working on a resolution.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

Sharepoint/Member Meetings/D CMTE/2024 Summer National Meeting/MAPWG/00805/08-MAPWG.docx

Draft: 7/11/24

Market Analysis Procedures (D) Working Group
Virtual Meeting
June 24, 2024

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 24, 2024. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Teri Ann Mecca (AR); Maria Ailor and Tolanda Coker (AZ); Don McKinley (CA); Tracy Garceau (CO); Steve DeAngelis (CT); Susan Jennette (DE); Keith Nault (FL); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Raymond Guzman (MD); Connie Mayette (ME); Jeff Hayden (MI); David Dachs (MT); Robert McCullough (NE); Ralph Boeckman and Erin Porter (NJ); Larry Wertel (NY); Guy Self (OH); Landon Hubbard (OK); Karen Veronikis (PA); Brett Bache (RI); Shelly Wiseman (UT); Melissa Gerachis (VA); Isabelle Turpin Keiser (VT); and Rebecca Rebholz and Darcy Paskey (WI). Also participating was Brad Gerling (MO).

1. Adopted its April 29 Minutes

The Working Group met April 29 and took the following action: 1) adopted its Spring National Meeting minutes; 2) adopted pet insurance Market Conduct Annual Statement (MCAS) ratios; 3) adopted the requirement for fraternal companies to annually report MCAS; 4) discussed NAIC Market Information System (MIS) data; 5) discussed the lunch-and-learn session scheduled for May 6; and 6) received an update on the current MCAS reporting.

Haworth made a motion, seconded by Rebholz, to adopt the Working Group's April 29 minutes (Attachment Two-A1). The motion passed unanimously.

2. Discussed NAIC MIS Data

LeDuc said the summary report of the Market Analysis Prioritization Tool (MAPT) interviews, which were conducted late in 2023 with 26 jurisdictions, was distributed to all Working Group members, interested regulators, and interested parties immediately after the Working Group's April 29 meeting and again on June 13. LeDuc said she would like the Working Group to consider three questions: Are there any states that have some process not generally captured in the summary; are there any other improvements that come to mind after reading the summary; and what is the single most important improvement that we should focus on?

LeDuc said her observation was the baseline analysis process varied across jurisdictions by the scope of the analysis done and the frequency of the analysis. She noted there are good reasons for variations, and it is important to allow flexibility for jurisdictions to customize the analysis process. She said when MAPT was originally conceived, the idea was to allow analysts to work smarter, not harder. The goal of MAPT was to have a tool that could quickly identify companies that need more in-depth analysis. She said it appeared from the interviews that the built-in mechanism to prioritize companies is either not working as intended or is not understood. She said it seems that jurisdictions are spending more resources doing work that does not have to be done manually.

Guzman said he generally agrees with the findings. He said Maryland has not utilized the scoring in MAPT because the scoring is not well understood, and they find the scores do not always point to the companies that should be targeted. He said Maryland prefers to look at the underlying data. He said if the scoring could be refined or if materials could be developed to show how the scoring is calculated, it might make MAPT more useful. Keiser said the training being done in the lunch-and-learns has been very helpful. Garceau said that the report was very instructive, and she is learning quite a lot.

LeDuc said she believes there is a way to build a system that accurately prioritizes companies in a way that everyone can understand.

Haworth asked if anyone uses the rankings. He said he tends to ignore them and goes straight to the underlying data. He said a lot of time is spent just verifying the data is correct. LeDuc said that is what is happening, and the system has to be refined so analysts do not have to go through all of that effort.

Ailor said there is a disconnect between the analysis tools, and there needs to be better synthesis among them. She said Arizona also does not use rankings but does rely heavily on MAPT scores because they are familiar with how they were generated, but not everyone has that knowledge. She said if a different method is developed to prioritize companies, such as the ratios in the Market Conduct Annual Statement (MCAS), there must be uniformity. She said once a prioritization method is chosen, it should be tested on a line of business.

LeDuc said she likes the idea of testing a method on a single line of business. She said she would choose a property/casualty (P/C) line. Haworth agreed and said most people have a familiarity with the private passenger auto line, whereas the health line would be too unwieldy. He said the Working Group would need to determine the best tool to use because the NAIC is coming up with new tools. Once one is developed for the private passenger auto line, the processes can be tested on other lines. LeDuc agreed that private passenger auto was a good line to start with since everyone is an auto insurance consumer and has familiarity with the line. She suggested forming a subject matter expert (SME) group.

LeDuc said the SME group would look into what data is missing. For example, MAPT only has examination data and not any data from the Market Actions Tracking System (MATS). She said we could also expand quarterly financial data and add in Market Analysis Review System (MARS) reviews. She said the SME group could also look into adding new concepts, such as clustering companies by a common attribute like premium size or incorporating text analytics. Ailor said that Brent Kabler (MO) has developed a method for isolating only the most substantive Regulatory Information Retrieval System (RIRS) data. Gerling said he has that methodology. Haworth suggested including the System for Electronic Rates & Forms Filing (SERFF) data and licensed producers in the prioritization. He said the financial MAPT and the MCAS-MAPT are often very different, and it is unclear if the company was inaccurate in its financial reporting or its market conduct reporting. LeDuc said she would recommend merging the two MAPTs. Mayette said the financial MAPT has more current data than the MCAS-MAPT, which may make merging difficult. Dachs noted that a definition document is needed. LeDuc said that was a good point and that good documentation would be one of the goals for the SME group.

LeDuc said she sees little value in conducting interviews regarding the MCAS-MAPT. She suggested the Working Group spend its time envisioning a future for both the MAPT and MCAS-MAPT. LeDuc asked anyone who wanted to be on the SME group to develop recommendations for improving MAPT to send a note to her, Haworth, or Randy Helder (NAIC).

3. Discussed the Lunch-and-Learn Schedule

LeDuc thanked Rodney Good (NAIC) for his presentation on June 17 about the financial metrics that are often used in market analysis. She asked if there were any suggestions for topics for the next lunch-and-learn. Hearing none, she suggested a series on MARS reviews. Haworth suggested a series on the new NAIC tools, such as ThoughtSpot and Snowflake.

LeDuc asked that suggestions be sent to Helder.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

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Draft: 5/13/24

Market Analysis Procedures (D) Working Group
Virtual Meeting
April 29, 2024

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 29, 2024. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Maria Ailor and Tolanda Coker (AZ); Don McKinley (CA); Tracy Garceau (CO); Steve DeAngelis (CT); Tina Ching (DC); Susan Jennette (DE); Paul Walker (FL); Erica Weyhenmeyer (IL); Kichelle Henderson (KS); Lori Cunningham (KY); Josh Guillory (LA); Mary Lou Moran (MA); Raymond Guzman (MD); Timothy N. Schott (ME); Jeff Hayden (MI); Bryce Wang (MN); Troy Smith (MT); Martin Swanson (NE); Douglas Rees (NH); Ralph Boeckman and Erin Porter (NJ); Larry Wertel (NY); Ryan McConnell (OH); Karen Veronikis (PA); Brett Bache (RI); Rachel Moore (SC); Melissa Gerachis (VA); Karla NuiSSL (VT); and Rebecca Rebholz and Darcy Paskey (WI).

1. Adopted its Spring National Meeting Minutes

Veronikis made a motion, seconded by Haworth, to adopt the Working Group's Feb. 26 minutes (*see NAIC Proceedings – Spring 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Two*). The motion passed unanimously.

2. Adopted Pet Insurance MCAS Ratios

LeDuc said the proposed pet insurance Market Conduct Annual Statement (MCAS) ratios have been posted on the Working Group's web page since February, and two sets of comments have been received: one from the National Association of Mutual Insurance Companies (NAMIC) and the other from the North American Pet Health Insurance Association (NAPHIA). She said NAMIC's comments were about some data elements that may be difficult for companies to capture, which could result in misleading ratios. The comments from NAPHIA supported the ratios.

LeDuc said eight ratios will be publicly displayed on the MCAS scorecards page, and 26 ratios will only be made available to state insurance regulators.

Bache made a motion, seconded by Haworth, to adopt both the public and non-public pet insurance MCAS ratios. The motion passed unanimously.

3. Adopted the Requirement for Fraternal Companies to Annually Report MCAS

LeDuc said one set of comments has been received from the Pennsylvania Insurance Department. Veronikis said that after consulting with the department's legal team and deputy commissioner of market regulation, they continue to support removing the exemption for fraternal companies in MCAS.

Schott said Maine has no authority to require MCAS filings from fraternal companies and asked for an exception for Maine. LeDuc said there are a few states in the same situation, and since MCAS is collected state-by-state, a state can provide waivers to fraternal companies. Swanson said Nebraska continues to object to the inclusion of fraternal companies.

Gerachis made a motion, seconded by Veronikis, to remove the MCAS exemption for fraternal organizations and require them to file MCAS in states in which they meet the premium threshold. The motion passed with Nebraska voting against and Massachusetts abstaining.

Allison Koppel (American Fraternal Alliance—AFA) said the AFA continues to oppose removing the exemption. She said that companies need to be provided at least six months to prepare for reporting MCAS if it is removed. LeDuc said that the process of making changes to MCAS provides at least six months to prepare. Fraternal companies' first filings will be in 2026 for the 2025 data year.

4. Discussed NAIC MIS Data

LeDuc said she and NAIC staff interviewed 26 jurisdictions about their use of the Market Analysis Prioritization Tool (MAPT). She said various small and large departments were included in the interviews. The summary of the interviews will be sent to the Working Group distribution lists after the Working Group's meeting. She said the summary will report on the 26 jurisdictions as well as Missouri's use of the MAPT.

LeDuc said the interviews revealed that the MAPT has value to jurisdictions, and there is widespread use of the MAPT, with only three not using the MAPT in their baseline analysis. She said Missouri is one of those, and it has its own back-end connection to the data, which it imports into its own processes. The interviews also revealed that there is room for improvement. She said the scores in the MAPT are not being used as originally intended. She said this could be because jurisdictions are not identifying the scoring values or there is a lack of documentation describing how the scores are determined. It was also revealed that the MAPT is used in many different, though similar, ways. She said there may be a need for MAPT to be more customizable. Lastly, using the MAPT for baseline analysis is a manual process with a lot of cutting, pasting, and sorting columns.

LeDuc said one of the Working Group's charges is "in accordance with the second recommendation of the adopted *Review of Artificial Intelligence Techniques in Market Analysis*, to assess currently available market analysis data to identify needed improvements in the effectiveness of the data for market analysis and the predictive abilities of the market scoring systems utilizing the data." LeDuc said the MCAS-MAPT also incorporates scoring and was not specifically addressed in the interviews on the MAPT; however, it was used in conjunction with the MAPT in most jurisdictions. She said the MCAS-MAPT could be the next Market Information Systems (MIS) tool to consider.

LeDuc said many jurisdictions are waiting to do their baseline analysis, so they combine their MCAS data with the MAPT. It would be good to find a way to combine the MCAS-MAPT and the MAPT. Haworth noted that Washington combines MCAS and the MAPT with Python and then exports the data into Excel. He said they do their own scoring because the scoring in MAPT and MCAS results in many false positives. LeDuc said combining the two at the NAIC for use in all jurisdictions would be better. Haworth said it is cleaner to download and query homeowners and auto. He said 256 columns are a lot to go through, and it is easier for Washington to just go through the data it needs. He said the MCAS-MAPT could be made more useful. Ailor agreed and said that historically, Arizona combined the MAPT and MCAS-MAPT for lines of business that were easy to combine, such as auto and homeowners. She said health is far too much to combine easily. She said this was a good time to discuss combining the two tools. Teresa Cooper (NAIC) said the NAIC is currently working on getting MCAS data in ThoughtSpot, and this will reduce the number of tables from 11 to only two.

LeDuc said the built-in scoring in the MAPT does not seem to be hitting the mark, and it should be re-evaluated. Ailor said it would be helpful to have a fresh set of eyes look at the scoring. Guillory said the type of company can skew the data and scoring, and Louisiana develops its own indexes for scoring.

LeDuc said the conversation will be continued after everyone has a chance to review the summary.

5. Discussed the Lunch-and-Learn Webinar Scheduled for May 6

LeDuc said the Working Group's next lunch-and-learn session will be May 6. She thanked Utah and North Carolina for volunteering to share their processes for downloading, adapting, and organizing the MAPT data in their own tools in order to conduct their baseline analyses.

6. Received an Update on the Current MCAS Reporting

Randy Helder (NAIC) said with one day left before the MCAS due date for all lines of business except health insurance, other health insurance, and short-term, limited-duration insurance (STLDI), nearly 50% of all expected filings have been received. He said another 45% or more of the filings are expected to be filed on the last day. He advised that the jurisdictions will likely experience many more extension and waiver requests in the next day. Helder noted that Ratio 4 and Ratio 5 will not be posted this year for the other health filing. He said the numerous data elements in each add complexity to calculating them. He also suggested that the Working Group take another look at these since they seem to only provide an average of an average.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

Sharepoint/Member Meetings/D CMTE/2024 Summer National Meeting/MAPWG/0429/04-MAPWG.docx

Draft: 8/1/24

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
July 11, 2024

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 11, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Tolanda Coker, Vice Chair (AZ); Keith Nault (FL); Paula Shamburger (GA); Erica Weyhenmeyer (IL); Mary Lou Moran (MA); Raymond Guzman (MD); Julie Hesser and Cynthia Amann (MO); Martin Swanson (NE); Ben Houck (OH); Karen Veronikis (PA); Glynda Daniels (SC); Tony Dorschner (SD); Shelli Isiminger (TN); William Stimpson (UT); Melissa Gerachis (VA); John Kelcher (WA); and Letha Tate (WV). Also participating was: Mary Kay Rodriguez (WI).

1. Adopted its June 6 Minutes

The Working Group met June 6. During this meeting, the Working Group took the following action: 1) received an update from the other health/short-term, limited-duration (STLD) subject matter expert (SME) group, 2) received an update from the accelerated underwriting (AU) SME group, 3) received an update from the pet insurance SME group, and 4) received an update on Market Conduct Annual Statement (MCAS) filings and the 2023 MCAS premium exhibit used for identifying required filings.

Dorschner made a motion, seconded by Gerachis, to adopt the Working Group's June 6 minutes (Attachment Three-A). The motion passed unanimously.

2. Discussed the Recommendation from the Other Health/STLD SME Group to Remove Duplicate Data Element No. 51 from the Other Health MCAS

Rodriguez explained that while two data elements in the other health MCAS are worded differently, they ask for the same information. No. 51 asks for the number of new policies or certificates denied during a period, while No. 90 asks for the number of individual applications or enrollments denied. Rodriguez stated that the SME group suggests keeping No. 90 because, as applicants get denied, policies normally do not.

Rebholz asked that any comments related to this be sent to Hal Marsh (NAIC) no later than Aug. 2.

3. Discussed the Draft FAQ and Definitions Related to AI and ML Proposed by the AU SME Group

Rebholz stated the first FAQ is, "Why is the term 'big data' not included in the MCAS definition and accelerated underwriting?" She answered that the term "big data" was used in the NAIC's AU educational report. It was intentionally left out of the MCAS definition of AU because it was an undefined term that could potentially lead to inconsistencies in MCAS reporting. Brendan Bridgeland (Center for Insurance Research—CIR) stated the term "big data" is used in the educational report's definition cited in the MCAS data call and definitions, and it would be better to say that the term is too vague. Rebholz said that could be a better way to state it and could lead to an update on the FAQ.

Rebholz moved on to question two of the FAQ, which is, "How would the company determine if its processes are considered accelerated underwriting?" Rebholz explained that three elements must be present to meet the MCAS AU reporting requirements. The first element is artificial intelligence (AI)/machine learning (ML). Predictive models and ML algorithms are used to analyze applicant data. A model or algorithm prediction is used to limit or replace a human decision. If the data is run through a predictive model or ML algorithm, it is considered AU under

the MCAS definition. The second element is data. FCRA-compliant, non-medical, third-party data and/or other non-medical, third-party data is used, including if it is used in conjunction with application data and/or medical data. If only application data and/or medical data are used, it does not meet the definition. The third element is decision, as life insurance is underwritten by predicting an insurance outcome.

Rebholz moved to the third FAQ question, which is, “Can examples be provided on what would not be accelerated underwriting?” Rebholz said for the purposes of MCAS reporting, AU does not include a simple automated analysis of an application and/or medical information, and that does not meet elements No. 1 or No. 2. She also stated that using insurance claims or motor vehicle violation data in standalone underwriting rules, such as declining coverage for a driving-under-the-influence conviction, that does not meet element number one above, and use of medical data only in an algorithm, and that would not meet element number two above.

Rebholz moved on to the draft definitions of algorithms, AI, big data, ML, and predictive models. She explained that the SME group opted to use existing definitions as the basis for the MCAS AU definitions.

Rebholz stated the draft definitions were all taken from one of the following: the NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers; AI bulletin; the NAIC Glossary for Regulators of Insurtech; the Casualty Actuarial and Statistical (C) Task Force’s predictive model white paper; or the NAIC’s *Accelerated Underwriting in Life Insurance Educational Report*. She also stated that the definition of algorithm comes from three of these listed sources.

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

4. Discussed the Draft Definitions for Partial Payments and Cancellations Proposed by the Pet Insurance SME Group

Kelcher provided an overview of the draft pet insurance definitions. Partial payment is defined as “a claim not paid in full for costs included in the insurance policy/certificate's coverage. Removal from a claim of charges for costs not covered in the policy – where there is full payment for costs covered in the policy – is not considered a partial payment. Do not report as partial payment claims that are reduced by deductibles, copays, maximum benefit limits, or other limitations set by the insurance policy/certificate.”

Kelcher said the cancellation definition was revised to “cancellation – includes all cancellations of policies where the cancellation effective date is during the reporting year”. These should be reported every time a policy is canceled during the reporting period (i.e., if a policy is canceled for non-pay three times in a policy period and is reinstated each time, each cancellation should be counted). Exclusions are:

- Policies canceled for “re-write” purposes where there is no lapse in coverage.
- Policies returned by the owner under the right to review or the free look provision

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

5. Discussed a Review of MCAS Other Health Interrogatory Question No. 5

Rebholz said that within the MCAS submission tool, the character limitation for interrogatories is 4,000 characters, and companies are exceeding this limit. Companies have said that entering this information is time-consuming and have questioned its usefulness to regulators. Rebholz asked if there are options available to modify it or if the data that is collected serves a purpose since it is in a difficult format and hard to parse through.

Rodriguez suggested putting together an SME group to look at the types of information being received for this interrogatory. Coker suggested continuing to receive the information and only updating if a company has a change in the following year and then only having to report the changes. Rebholz suggested forming an SME group and discussing Coker's suggestion.

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

6. Discussed the Review of Existing MCAS Lines of Business

Rebholz stated that the oldest lines of business collected for MCAS are homeowners, private passenger auto (PPA), and life and annuity. Since this is the first attempt at updating an existing MCAS, Rebholz suggested picking one or two of these lines to focus on.

Guzman stated that homeowners and PPA deserve attention, especially given changes in the marketplace. He suggested starting with PPA. Rebholz agreed to start with PPA.

7. Discussed Other Matters

Teresa Cooper (NAIC) gave an update on MCAS filings to date. Cooper stated that the last filing deadline has passed. Other health MCAS filings were due at the end of June and are now past the initial filing date. Companies can continue to make amendments to filings as needed and that will continue through mid-January 2025.

Cooper said there are some companies that have extensions. There has been continued correspondence with companies regarding validation failures, and NAIC data analysts are working through these. There was one issue in the other health MCAS where a company stated that it was not able to move forward with its filing because it answered "no" to the first interrogatory question, which is, "Are you currently marketing these products in this jurisdiction?" Cooper explained a draft validation, which was not intended to be used for the 2023 data year, was inadvertently put into production during an information technology (IT) update on June 24. It was identified and inactivated on the morning of June 26. She said she believed the impact was minimal.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG

Draft: 7/3/24

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
June 6, 2024

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 6, 2024. The following Working Group members participated: Rebecca Rebholz, Chair, and Mary Kay Rodriguez (WI); Tolanda Coker, Vice Chair, and Maria Ailor (AZ); Rachael Lozano (FL); Paula Shamburger (GA); Erica Weyhenmeyer, (IL); Kichelle Henderson and Charles Thomas (KS); Lori Cunningham (KY); Raymond Guzman (MD); Jeff Hayden (MI); Julie Hesser (MO); Robert McCullough (NE); Guy Self (OH); Karen Veronikis (PA); Rachel Moore (SC); Tony Dorschner (SD); Shelli Isiminger (TN); Shelley Wiseman (UT); Laura Klanian (VA); and Letha Tate (WV).

1. Adopted its May 1 Minutes

During its May 1 meeting, the Working Group took the following action: 1) adopted its April 19 and April 2 minutes; 2) adopted the revised definition of external replacement of affiliated company policies; 3) formed a subject matter expert (SME) group to draft revisions to the short-term, limited-duration (STLD) Market Conduct Annual Statement (MCAS) blank arising from new federal rules; and 4) considered the deletion of duplicate data elements in the other health and STLD MCAS blanks.

Weyhenmeyer made a motion, seconded by Wiseman, to adopt the Working Group's May 1 minutes (Attachment Three-A1). The motion passed unanimously.

2. Received an Update From the SME Group on Other Health and STLD MCAS Reporting Issues

Rodriguez stated that the SME group met June 4 and discussed the STLD and other health MCAS blanks. Regarding STLD, it was discussed that the effective date of the new U.S. Department of Health and Human Services (HHS) rule is Sept. 1, 2024. Rodriguez also stated that the SME group has decided to leave the blank as is for 2024 and 2025 data because there will still be some policies in effect under the old rules in those years. She went on to say that for the other health MCAS blank, there is currently a revision request dated March 19, 2024, pertaining to duplicate data fields on the blank. It was discussed that since this is a simple change, one of the duplicates will be eliminated since it would not require any system changes for the industry. The SME group decided to meet again June 11 to discuss the duplicate data fields.

3. Received an Update From the SME Group on the MCAS Life AU Definitions and FAQs

Rebholz stated that this SME group met May 23. The SME group finalized the frequently asked questions (FAQs) for the MCAS life accelerated underwriting (AU) data elements, which are now ready for the Working Group to review and approve. The SME group also finalized a list of definitions that it recommends be added to the life MCAS data call and definitions. The draft FAQs and definitions are available on the Working Group's web page for review and will be added to the materials for the Working Group to consider at its next meeting.

Rebholz asked that any comments related to these drafts be sent to Hal Marsh (NAIC) no later than June 28.

4. Heard an Update From the SME Group on Pet Insurance MCAS Topics

Randy Helder (NAIC) stated that the SME group met May 17 and discussed partial payments for Pet Insurance claims and what constitutes a partial payment. Helder stated the group is very close to having something to present to the Working Group at its next meeting. The SME group plans to further discuss this at its June 7 meeting.

5. Heard an Update on MCAS Filings and the 2023 MCAS Premium Exhibit Used for Identifying Required MCAS Filings

Teresa Cooper (NAIC) stated that the group has made it past the April 30 deadline for all lines of business collected by MCAS, other than STLD and other health. Cooper also stated that the May 31 deadline for health and STLD. The next deadline is June 30 for other health was met.

Cooper stated that for the 2023 data year, the MCAS premium exhibit was added to the financial annual statement. On this exhibit, companies would specify which MCAS lines of business they will be filing in each state. Cooper stated that the reason for this addition was that, in the past, financial statement premiums were used to complete the MCAS required to file indicators in the MCAS submission tool, which has proven to not always be accurate. Cooper said, for example, that MCAS does not apply to antique automobiles in the private passenger auto (PPA) line of business. Companies with only antique auto coverage would have to submit waiver requests; otherwise, they will show as being required to file. Cooper stated that adding this MCAS premium exhibit allows companies to indicate whether they have to file MCAS for each jurisdiction and line of business.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG

Draft: 5/21/24

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
May 1, 2024

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met May 1, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Tolanda Coker, Vice Chair (AZ); Rachel Lozano (FL); Erica Weyhenmeyer (IL); Kichelle Henderson (KS); Raymond Guzman (MD); Jeff Hayden (MI); Julie Hesser (MO); Guy Self (OH); Karen Veronikis (PA); Rachel Moore (SC); Tony Dorschner (SD); Shelli Isiminger (TN); Melissa Gerachis (VA); and John Kelcher (WA). Also participating were: Nina Hunter (LA); and Brett Bache (RI).

1. Adopted its April 19 and April 2 Minutes

The Working Group also met April 2. During this meeting, the Working Group took the following action: 1) adopted its Oct. 10, 2023, minutes; 2) discussed needed pet insurance Market Conduct Annual Statement (MCAS) clarifications; 3) reviewed two sets of duplicate data elements in the MCAS short-term, limited-duration (STLD) blank; 4) reviewed two sets of duplicate data elements in the MCAS other health blank; 5) discussed possible edits to the definition of AU for clarification purposes; 6) discussed the clarification of MCAS home and auto definition of a lawsuit; and 7) discussed MCAS reporting of life/annuity replacements of a policy/contract of a company under the same holding company group.

Kelcher made a motion, seconded by Coker, to adopt its April 2 minutes (Attachment Three-A1a). The motion passed unanimously.

Rebholz stated that the Working Group conducted an e-vote that concluded April 19 to adopt grammatical edits to the accelerated underwriting (AU) definition.

Coker made a motion, seconded by Isiminger, to adopt its April 19 minutes (Attachment Three-A1b). The motion passed.

2. Discussed the Formation of an SME Group to Review the STLD Rule Change

Randy Helder (NAIC) provided an overview of the new rules of the U.S. Department of Health and Human Services (HHS). The rules change the time periods for what qualifies as an STLD plan. Helder explained that the time period had been 12 months minus one day, with the possibility of two renewals going up to a maximum of 36 months. The new rule changes the time period to three months, with a maximum of four months for renewals. The current blank does not match the new rule that was adopted. Helder stated that John Haworth (WA) suggested the Working Group look at the STLD blank and ensure it is current. Helder stated that a subject matter expert (SME) group needs to be formed to ensure this blank is updated with the rules.

Rebholz said that a state insurance regulator is needed to lead this SME group discussion. She said that any interested parties and state insurance regulators should contact Hal Marsh (NAIC).

3. Adopted a Motion to Remove Duplicate Data Elements in the MCAS STLD Blanks

Rebholz stated that the first set of duplicate data elements is 64 and 74, which were exposed during the Working Group's [insert date] meeting, and the Working Group was invited to send written comments during the provided period. No comments were received regarding these duplicate data elements.

Rebholz described duplicate data elements 64 and 74. She explained that data element 64 reads as the number of covered lives on policies/certificates canceled at the initiation by the policyholder/certificate holder during the period. Data element 74 is its duplicate and reads as the number of insured lives impacted by terminations and cancellations initiated by the policyholder/certificate holder. Rebholz stated the recommendation is to remove data element 64. She explained that the reason is that "insured lives impacted" is more consistent with other data elements within the reporting blank.

Guzman asked if the cancellations were defined as being initiated by the policy/certificate holder or whether they were all cancellations.

Teresa Cooper (NAIC) explained that in data element 64, cancellations are initiated by the policy/certificate holder, whereas in data element 74, its terminations and cancellations are by the policy/certificate holder.

Gerachis made a motion, seconded by Hesser, to remove data element 64. The motion passed unanimously.

Rebholz moved to the next set of duplicate data elements, 69 and 75. Rebholz reviewed that element 69 is the number of lives on policies/certificates canceled due to non-payment of premium during the period. Rebholz explained that data element 75 is the number of insured lives impacted by terminations and cancellations due to non-payment. Rebholz stated that the recommendation is to remove data element 69.

Veronikis made a motion, seconded by Gerachis, to remove data element 69. The motion passed unanimously.

4. Adopted a Motion to Remove Duplicate Data Elements in the MCAS Other Health Blanks

Rebholz said another set of duplicate data elements is 67 and 71. She said data element 67 reads as the number of denied, rejected, or returned as non-covered or maximum benefit exceeded, and data element 71 reads as the number of denied/rejected or returned in whole or in part because the maximum dollar limit has been exceeded. Rebholz stated the recommendation is to eliminate element 71. Rebholz went on to say element 67 includes non-covered, which better aligns with the intent of that element.

Gerachis made a motion, seconded by Hesser, to remove data element 71. The motion passed unanimously.

Rebholz moved to the next set of duplicate data elements, 51 and 90. Rebholz reviewed that element 51 reads as the number of new policies/certificates denied during the period, and element 90 reads as the number of individual applications/enrollments denied during the period for any reason. Rebholz said the recommendation at this time is to keep both and have an SME group review the entire other health blank to determine the best course of action. At this time, there is one year to complete any review and approve any changes that the SME group would bring back to the Working Group.

5. Adopted the Proposed Clarification of the MCAS Home and Auto Definition of a Lawsuit

Rebholz reminded the group that this proposal was presented during the Working Group's April meeting, a comment period was provided, and no comments were received. Rebholz restated that the proposal was to add a clause for non-claims related lawsuits at the first bullet point.

Helder provided an explanation for the edit. He stated that the current wording of the first bullet point was added to define non-claims-related lawsuits. It was copied from the Disability Income MCAS definition of lawsuit, and the intent of adding this bullet point was to define non-claims related lawsuits. Since it was added to the entire definition of a lawsuit, the bullet point also alters how claims-related lawsuits are to be reported. The current wording would drastically reduce the reported number of claims-related lawsuits if the companies read and applied this new definition without questioning the change. Helder explained there was a need to bring consistency to the definition of Lawsuits between the different blanks. Helder clarified that this bullet point only applies to non-claims-related losses.

Veronikis made a motion, seconded by Gerachis, to approve the proposed lawsuit definition edit to change the first bullet point on the existing definition to "For non-claims related lawsuits, include only lawsuits brought by an applicant for insurance, a policyholder or claimant as a plaintiff against the reporting insurer as a defendant." The motion passed unanimously.

6. Adopted Proposed Edit to the Definition of External Replacement of Affiliated Company Policies in the MCAS Life and Annuity Blanks

Rebholz stated this proposal came from Bache and was presented to the Working Group during its April 19 meeting. A comment period was provided, and no comments were received regarding the proposal.

Bache stated that Rhode Island noticed the definitions of internal and external replacements were broken out on the life and annuity blanks. Bache said it appears that the definitions referred to replacements of affiliated companies as external replacements. He said Rhode Island noticed in the *Life Insurance and Annuities Replacement Model Regulation (#613)* under the incontestability provision. He said Rhode Island's interpretation is that these affiliated company replacements are actually internal. Bache also stated that this would be a change in definition and a link update, but not in the collected data.

Rebholz stated that if adopted, the proposed definition amendment would be added in 2025 for the 2026 reporting year.

Isiminger made a motion, seconded by Gerachis, to adopt the proposed edit for the data and definition to read "internal replacements" in the definition of external replacement of affiliated company policies in the MCAS life and annuity blanks. The motion passed unanimously.

7. Received an Update on Possible Edits to the Definition of AU for Clarification Purposes

Rebholz gave an update on the AU definition and what the SME group has been working on. The SME group met April 16 to discuss the possible edits. It was decided that a frequently asked questions (FAQ) document needed to be created to provide more information on what was being asked. A draft was written and submitted to the SME group, and feedback was received regarding this draft. Another SME group meeting will take place May 2. Rebholz stated the life and casualty filings were due April 30, and the SME group will continue its work on the FAQ and any other clarifications needed.

8. Received an Update on the Formation of an SME Group to Discuss Needed Pet Insurance MCAS Clarification

Rebholz stated that Kelcher has agreed to lead the pet insurance MCAS within the SME group. Rebholz asked if anyone would like to be part of this SME group to please reach out.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG

Draft: 4/25/24

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
April 2, 2024

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 2, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Maria Ailor (AZ); Erica Weyhenmeyer (IL); LeAnn Crow (KS); Jeff Hayden (MI); Bryce Wang (MN); Jo LeDuc (MO); Robert McCullough (NE); Guy Self (OH); Karen Veronikis (PA); Tony Dorschner (SD); Shelli Isiminger (TN); and Melissa Gerachis (VA). Also participating was: Brett Bache (RI).

1. Adopted its Oct. 10, 2023, Minutes

The Working Group met Oct. 10, 2023. During the meeting, the Working Group took the following action: 1) adopted clarifying language to the definition of closed claim in the property and casualty lines of business; and 2) adopted revisions to the MCAS Change Process.

Rebholz made a motion, seconded by Crow, to adopt the Working Group's Oct. 10, 2023, minutes. The motion passed unanimously.

2. Discussed Needed Clarifications on the Pet Insurance MCAS

Randy Helder (NAIC) reported that while the Working Group was drafting the pet insurance Market Conduct Annual Statement (MCAS), it found there were a number of ratios that referred to partial payments and that there was not a definition for partial payment in the pet insurance MCAS blank. The drafting group decided to request that a subject matter expert (SME) group be formed to develop a definition that could be put into the data call and definitions, as well as draft frequently asked questions (FAQ) for guidance prior to the pet insurance blank's first filing in April, 2025. The Working Group also questioned whether a canceled policy would be reported in the right-to-review data element as well as the cancellation data element. The Working Group is still working to form the SME Group, and a draft definition is ready to present to the SME Group once it is formed. Crow said that if anyone is interested in being part of the SME Group to reach out.

3. Reviewed Two Sets of Duplicate Data Elements in the MCAS STLD Blank

Crow reported that NAIC staff have identified two potential duplicate data elements within the short-term, limited-duration (STLD) blank, which are date elements No. 69 and No. 75. She noted that data elements No. 64 and No. 74 may also be duplicates. These two elements ask for the number of covered lives impacted by cancellation initiated by the policyholder or certificate holder during the period. The date elements are #64 which is "the number of covered lives on a policyholder certificate, canceled at the initiation of the policyholder certificate" and data element # 74 which is "number of insured lives impacted on terminations and cancellations initiated by the policyholder/certificate holder."

The Working Group exposed the data elements for a 17-day public comment period ending April 19.

4. Reviewed Two Sets of Duplicate Data Elements in the MCAS Other Health Blank

Crow also identified two sets of duplicate data elements on the other health blank. Data element No. 67 is the “number of denied, rejected, or returned claims due to being non-covered or maximum benefit exceeded”, and No. 71 is the “number of denied, rejected, or returned (in whole or in part) because the maximum dollar amount limit exceeded.” She said there is also a potential duplication with data elements No. 51 and No. 90. She said both ask for the number of new policy certificates denied during the period.

The Working Group exposed the data elements for a 17-day public comment period ending April 19.

5. Discussed Possible Edits to Clarify the Definition of Accelerated Underwriting

Crow stated NAIC staff have received questions on the definition of accelerated underwriting (AU), and grammatical edits are needed for clarification. Rebholz said the proposed revisions are intended to complete the definition, which was not a complete sentence.

LeDuc said the definitions include both the Accelerated Underwriting (D) Working Group’s definition of AU and the MCAS definition of AU. LeDuc said the MCAS definition intentionally excluded the term “big data” and said it was made clear in the data call that the definition being presented was solely for the purpose of MCAS. Rebholz said that the term “big data” was removed at the request of the American Council of Life Insurers (ACLI).

Helder said that there needs to be some clarity for the companies and that there needs to be some expertise involved in developing the clarification. Crow proposed forming a SME group and have a call to provide the clarification that is needed. She said that anyone interested in participating should email Hal Marsh, Teresa Cooper, or Helder.

6. Discussed the Clarification of MCAS Home and Auto Lawsuit Definition

Crow said that questions have been raised regarding the updated lawsuit definition within the home and private passenger auto (PPA) MCAS data call and definitions. Helder said that when the Working Group attempted to make the definitions consistent throughout the lines of business, it unintentionally used language that would require only lawsuits that names the insurance company as a defendant. He said that would unintentionally exclude third party lawsuits on most claims against the insured. Helder proposed revising on the first bullet point of the lawsuit definition to begin with the clause, “for non-claims related lawsuits”.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said the issue arose because the original MCAS lines for PPA and homeowner (HO) had an old definition of lawsuit. The original definition was limited to first- and third-party lawsuits arising from a claim. Brown said when the wording was changed to include non-claims-related lawsuits it became confusing.

The Working Group provide for a 17-day public comment period ending April 19.

7. Discussed MCAS Reporting of Life/Annuity Replacements of a Company’s Policy/Contract Under the Same Holding Company Group

Bache said that in Rhode Island, the replacement of a policy issued by an affiliate or a subsidiary under common ownership is considered an internal replacement. He said this is consistent with the *Life Insurance and Annuities Replacement Model Regulation* (#613). He said the MCAS blanks requires replacements of affiliates to be reported

as external replacements. Bache proposed that they should be reported as internal replacements to be consistent with Model Regulation #613. Bache said that his proposal includes suggested language to make the revision.

Isiminger agreed with Bache.

The Working Group exposed the data elements for a 17-day public comment period ending April 19.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG

Draft: 4/26/2024

Market Conduct Annual Statement Blanks (D) Working Group
E-Vote
April 19, 2024

The Market Conduct Annual Statement (MCAS) Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee conducted an e-vote that concluded April 19, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Sheryl Parker (FL); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Mary Lou Moran (MA); Raymond Guzman (MD); Jeff Hayden (MI); Julie Hesser (MO); Robert McCullough (NE); Guy Self (OH); Karen Veronikis (PA); Rachel Moore (SC); Shelli Isiminger (TN); Shelley Wiseman (UT); Melissa Gerachis (VA); John Kelcher (WA); Letha Tate (WV).

1. Adopted the Proposed Grammatical Changes to the MCAS Life and Annuity Definition of AU

The existing definition of accelerated underwriting (AU) does not read as a complete sentence. The proposed additions to the definition do not change the substance of the definition but serve to make the definition more grammatically correct.

The grammatical change was first exposed to the MCAS Blanks (D) Working Group during its April 2, 2024, MCAS meeting. A subject matter expert (SME) group consisting of regulators, industry representatives, and NAIC staff met April 16, 2024, to review the change. The SME group is in agreement with the proposed edits.

The current definition of MCAS AU is “For this MCAS, data should be reported as Accelerated Underwriting when artificial intelligence and/or machine learning which utilizes, in whole or in part, Other Non-medical Third-party Data and/or FCRA Compliant Non-medical Third-party Data in the underwriting of life insurance; including when used in combination with Application Data or Medical Data.”

The proposed definition of MCAS AU is “For this MCAS, data should be reported as Accelerated Underwriting when artificial intelligence and/or machine learning which utilizes, in whole or in part, Other Non-medical Third-party Data and/or FCRA Compliant Non-medical Third-party Data in the underwriting of life insurance ***is applied;*** including when ***that data is*** used in combination with Application Data or Medical Data.”

A quorum of the Working Group members voted in favor of adopting the motion, which will allow for the grammatical changes to be made to the definition of AU on the MCAS life and annuity blanks. The motion passed.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

SharePoint/Market Regulation – Home/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG/WG Mtg 0501

Draft: 8/1/24

Market Conduct Examination Guidelines (D) Working Group
Virtual Meeting
July 30, 2024

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 30, 2024. The following Working Group members participated: Matthew Tarpley, Chair, Monica Lopez, Thomas Morgan, and Stacie Parker (TX); Brett Bache, Vice Chair, Matt Gendron, and Brian Werbeloff (RI); Teri Ann Mecca (AR); Katherine Jessen (AZ); Nick Gill (CT); Tina Ching (DC); Simone Edmonson, Elizabeth Nunes, Paula Shamburger, and Tia Taylor (GA); Paula Wallin (IA); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Jeff Hayden, Isaac Kane, and Danielle Torres (MI); Bryce Wang (MN); Cynthia Amann, Julie Hesser, Teresa Kroll, and Jo LeDuc (MO); Tracy Biehn and Teresa Knowles (NC); Ellen Wilkins (NH); Ralph Boeckman and Erin Porter (NJ); Sylvia Lawson (NY); Rodney Beetch (OH); Zach Palank (OK); Colette Hittner (OR); Paul Towsen (PA); Julie Fairbanks (VA); Isabelle Keiser (VT); Barbara Belling, Monica Hale, Darcy Paskey, Rebecca Rebholz, Mary Kay Rodriguez, and Jody Ullman (WI).

1. Adopted its May 22 Minutes

The Working Group met May 22 and took the following action: 1) heard opening remarks made by the Working Group chair; and 2) discussed its 2024 work plans, which included: a) the development of a new pet insurance examination chapter in the *Market Regulation Handbook* (Handbook) and new pet insurance-related standardized data requests (SDRs); b) revising five examination standards in the travel insurance examination chapter of the Handbook—Marketing and Sales Examination Standards 3, 4, 8, and 11 and Underwriting and Rating Examination Standard 1; c) updating the life and annuity examination chapter of the Handbook to reflect the March 2023 adopted revisions to *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold on or After December 14, 2020* (AG 49-A); d) developing a Working Group regulator-only shared space to serve as a repository for uniform market conduct tools, templates, etc.; e) monitoring the work of the Innovation, Cybersecurity, and Technology (H) Committee to address the Working Group’s charge to coordinate with the Committee to develop market conduct examiner guidance for the oversight of regulated entities’ use of insurance and non-insurance consumer data and models using algorithms and artificial intelligence (AI); and f) heard from NAIC staff about the regulator-only NAIC Connect platform.

Wilkins made a motion, seconded by Hayden, to adopt the Working Group’s May 22 minutes (Attachment Four-A). The motion passed unanimously.

2. Discussed its 2024 Work Plans

Tarpley said the meeting’s purpose was to provide the Working Group with an update on its 2024 work plans, which were last discussed during the Working Group’s May 22 meeting.

Tarpley said that he, Bache, and Petra Wallace (NAIC) have been coordinating with state insurance regulator subject matter experts (SMEs) who volunteered to draft a new Handbook chapter addressing conducting pet insurance examinations and new pet insurance-related SDRs. The SMEs are developing examiner guidance based on the adopted *Pet Insurance Model Act* (#633). The pet insurance SMEs held two drafting meetings in June and will continue to meet to finalize a draft pet insurance chapter and pet insurance-related SDRs for exposure at the Working Group. The SMEs working on the project are Ullman and Wilkins; Lori Cunningham (KY) will join them when they begin working on the pet insurance-related SDRs. Tarpley said the SMEs expect to provide the Working

Group with an exposure draft of a new pet insurance chapter and SDRs later this year, which will be subject to the Working Group's adoption process.

Bache said that he, Tarpley, and Wallace have been coordinating with state insurance regulator SMEs who volunteered since the Working Group's May 22 meeting to draft updates to Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination of the Handbook. Five examination standards in Chapter 21A are missing review procedures/criteria. Using the adopted *Travel Insurance Model Act* (#632) as a basis, the travel insurance SMEs are drafting new examiner guidance for Marketing and Sales Standards 3, 4, 8, and 11 and Underwriting and Rating Standard 1. The travel insurance SMEs held drafting meetings in June and July and will continue to meet to finalize revisions to the travel chapter. The SMEs working on the project are Josh Guillory and Bob Barnes (LA), Rachel Moore (SC), Kroll, and Biehn. Bache said the SMEs expect to provide the Working Group with an exposure draft of the travel insurance chapter later this year, which, like the pet insurance chapter and SDRs, will be subject to the Working Group's adoption process.

Tarpley said he recently developed redline revisions to Chapter 23—Conducting the Life and Annuity Examination to reflect the March 2023 adopted revisions made to AG 49-A. Tarpley said the changes he made will update the chapter to correspond with AG-49-A. A redlined exposure draft of Chapter 23 will be circulated in August for a comment period and subsequent discussion at the Working Group's next meeting scheduled for September.

Wallace said one of the Working Group's charges is to develop uniform market conduct procedural guidance in a space where state insurance regulator tools (such as exam call letters, exam exit agendas, etc.) can be shared among regulators. Wallace said that at the Working Group's May 22 meeting, she provided a description of NAIC Connect, which is a regulator-only member portal for state insurance regulators. NAIC Connect was launched in 2023, and some of its functions are still being developed and fleshed out. It will serve as a platform and resource for the NAIC Membership. When its available features are more fully developed, NAIC groups will be able to each have a shared space for content, tools, and related topics for its members. Wallace said, to her knowledge, that the NAIC's intent is for each NAIC group to have its own respective page on the NAIC Connect platform. NAIC staff are working on adding NAIC groups to NAIC Connect (e.g., the Market Regulation and Consumer Affairs (D) Committee was added in July); its member groups will be added later this year.

Tarpley said that he and Bache are monitoring the work of the Innovation, Cybersecurity, and Technology (H) Committee and its workstreams to stay on top of the initiatives they are discussing that relate to regulator guidance in the Handbook.

3. Discussed Other Matters

Tarpley thanked all SMEs for their participation in the Working Group's projects and asked the Working Group members to participate in as many meetings as possible throughout the year. Tarpley said a notice of the Working Group's next meeting, scheduled for September, will be distributed when a meeting date and time have been determined.

Having no further business, the Market Conduct Examination Guidelines (D) Working Group adjourned.

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Draft: 6/20/24

Market Conduct Examination Guidelines (D) Working Group
Virtual Meeting
May 22, 2024

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met May 22, 2024. The following Working Group members participated: Matthew Tarpley, Chair, and Stacie Parker (TX); Brett Bache, Vice Chair, and Brian Werbeloff (RI); Chris Erwin (AR); Tolanda Coker (AZ); Nick Gill (CT); Tina Ching and Pratima Lele (DC); Simone Edmonson, Paula Shamburger, and Tia Taylor (GA); Chris Heisler and Erica Weyhenmeyer (IL); Lori Cunningham and Ron Kreiter (KY); Airic Boyce, Jeff Hayden, and Danielle Torres (MI); T.J. Patton and Bryce Wang (MN); Cynthia Amann, Brad Gerling, Julie Hesser, Teresa Kroll, and Jo LeDuc (MO); Tracy Biehn and Teresa Knowles (NC); Ellen Wilkins (NH); Ralph Boeckman and Erin Porter (NJ); Sylvia Lawson (NY); Rodney Beetch (OH); Landon Hubbart, Zach Palank, and Shelly Scott (OK); Gary Jones and Paul Towsen (PA); Melissa Gerachis and Bryan Wachter (VA); Gregory Gray and Karla Nuissl (VT); John Haworth and Jeanette Plitt (WA); Barbara Belling, Darcy Paskey, and Mary Kay Rodriguez (WI); and Desiree Mauller (WV). Also participating were: Josh Guillory (LA) and Rachel Moore (SC).

1. Discussed its 2024 Work Plans

Tarpley extended a brief welcome and said the meeting's purpose is to provide the Working Group with an update for its 2024 work plans, which were last discussed during the Working Group's meeting on March 5 (*see NAIC Proceedings – Spring 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Three*).

Tarpley said that he, Bache, and Petra Wallace (NAIC) have been working on next steps since the last meeting. They have been working on: 1) the development of a new pet insurance exam standards chapter and pet insurance standardized data requests (SDRs); 2) revising five examination standards in the travel insurance exam standards chapter; 3) revising the life and annuity examination chapter of the *Market Regulation Handbook* (Handbook) based on revisions to *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index Based Interest Sold on or After December 14, 2020* (AG 49), which were adopted by the NAIC in 2023; and 4) developing a shared regulator-only collaborative space for the Working Group that will serve as a repository for uniform market conduct tools, templates, etc.

Tarpley said state insurance regulator subject matter expert (SME) volunteers have come forward since the Working Group's March 5 meeting to work on the development of a new pet insurance exam standards chapter, a new in force policy pet insurance SDR and a new pet insurance SDR addressing claims. He thanked Wilkins, Cunningham, and Jody Ullman (WI) for volunteering for this drafting project. Tarpley said the SMEs will develop the exam standards chapter based on the adopted *Pet Insurance Model Act* (Model #633). When the pet insurance exam chapter draft is near completion, the SMEs will then begin drafting the SDRs. When the SMEs have completed and signed off on the pet insurance chapter and SDRs, they will proceed to the Working Group for exposure, a comment period, review, and eventually, consideration of adoption.

Bache said that during the Working Group's March 5 meeting, he and Tarpley had asked for state insurance regulator volunteers to help clean up Chapter 21A—Conducting the Property and Casualty Travel Examination in the Handbook. No volunteers came forward during the meeting. Bache said the scope of the project is quite small. There are five examination standards in the chapter that are missing review procedures/criteria (marketing and sales examination standards 3, 4, 8, and 11 and underwriting and rating examination standard 1). Bache said that the project would involve reviewing the applicable sections of the *Travel Insurance Model Act* (Model #632) by regulator SMEs and developing new market examiner review procedures/criteria in the five examination

standards where content is missing. Josh Guillory (LA) and Rachel Moore (SC) volunteered to assist with the drafting project. Tarpley and Bache asked for additional state insurance regulator volunteers to join the travel insurance SME drafting group.

Tarpley said that he will revise Chapter 23—Conducting the Life and Annuity Examination of the Handbook to incorporate updated guidance based on revisions to AG 49, which were adopted by the NAIC in 2023. Tarpley said he would be in contact with the Life Actuarial (A) Task Force chair, who is also with the Texas Department of Insurance (TDI), regarding any questions on the Task Force’s revisions. Tarpley said he plans to provide a redlined draft of Chapter 23 to the Working Group before their next meeting. Tarpley said that since the revised AG 49A contains adopted language, the changes made to Chapter 23 will conform the language of the chapter with the revised adopted guidance in AG 49A.

Wallace gave an update on the development of a shared regulator-only collaborative space for the Working Group. She said that one of the Working Group’s charges is to develop uniform market conduct procedural guidance in a space where regulator tools can be shared among regulators. One of the NAIC’s recent initiatives to enhance member connectivity is NAIC Connect, which is a newly developed member portal for state insurance regulators. While NAIC Connect is live, some of its functions are still being developed and fleshed out. When the available features of NAIC Connect are more fully developed, it will be a shared platform for the NAIC membership and each NAIC group will be able to build and share content, tools, resources, and related topics on their respective pages on the platform for use by regulator members.

Tarpley said he and Bache are monitoring the work of the Innovation, Cybersecurity, and Technology (H) Committee and its workstreams to learn what initiatives they are discussing that relate to regulator guidance in the Handbook.

Tarpley thanked the state insurance regulator SME volunteers and asked the Working Group members to participate in as many meetings as possible throughout the year.

2. Discussed Other Matters

Tarpley said a notice of the next Working Group meeting will be distributed when a meeting date and time have been determined.

Having no further business, the Market Conduct Examination Guidelines (D) Working Group adjourned.

[NAIC Support Staff Hub/Committees/D CMTE/2024 Summer/MCEG/05-22.docx](#)

Draft: 7/11/24

Market Regulation Certification (D) Working Group
Virtual Meeting
June 24, 2024

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met June 24, 2024. The following Working Group members participated: John Haworth, Chair (WA); Bryan Stevens, Vice Chair (WY); Chelsy Maller (AK); Erica Weyhenmeyer (IL); Mary Lou Moran (MA); Kyle Lanasa (MD); Jo LeDuc (MO); Tracy Biehn (NC); Robert McCullough (NE); Denise Lamy (NH); Erin Porter and Ralph Boeckman (NJ); Don Layson (OH); Zach Palank (OK); Glynda Daniels (SC); Shelley Wiseman (UT); Andrea Baytop (VA); and Isabelle Turpin Keiser (VT).

1. Adopted its April 29 Minutes

The Working Group met April 29 and took the following action: 1) adopted its Spring National Meeting minutes; 2) discussed its plans for the Summer National Meeting; 3) discussed the market regulation certification scoring sheet; and 4) discussed certification program revisions.

Weyhenmeyer made a motion, seconded by Biehn, to adopt the Working Group's April 29 minutes (Attachment Five-A). The motion passed unanimously.

2. Discussed Assistance to Jurisdictions and Peer Review

Haworth said the certification program implementation plan addresses peer reviews on self-certification, but it would apply to both self-certifications and full certifications. The plan reads: "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 and/or market analysis experience to assist in meeting the needs of such requestors."

Haworth said the Working Group received a request for some assistance with developing policies and procedures for market regulation departments. He said there would be substantial differences in policies and procedures from state to state for numerous reasons, but this seems like the type of area where more experienced regulators may be able to provide advice.

Haworth said that it would be helpful to discuss what a peer review process should look like—who should be the "peers," what areas they should assist in, should there be a list of regulators based on areas of expertise, and other considerations for peer review.

Stevens said that regulators have reached out to him and Haworth concerned about whether they know enough, have the right laws, and other concerns. Stevens said he thought it was a good idea to put together groups with a variety of experiences from large and small states. Haworth agreed that advice is not one-size-fits-all, and a variety of experience and department sizes is a good idea. He said not everyone will do everything the same. He suggested putting together some type of frequently asked questions (FAQ) document to assist in developing guidance.

Biehn asked if the peer groups were envisioned to be a mix of large and small states, or if they would be organized by zone. Haworth said right now, the group consists of LeDuc and Stevens, and it would be great to have enough volunteers to break it out by zone. He said that is why he wanted this conversation today so states that are uncomfortable asking questions in the large group would be more comfortable speaking with a similar state. Biehn

asked if there would be a site to store documents that could be used by states completing a review. Haworth agreed with that and said it would be helpful to have an aggregate understanding of what policies and procedures are available from different states and make sure they comply with the *Market Regulation Handbook*. As an example, he cited how states that meet designation requirements could be different depending on their laws and circumstances. Stevens said the groups may be small and large states from each zone since each zone has unique challenges, such as types of catastrophes. Biehn said she would encourage pursuing peer review groups by zone to get the perspective of states within similar marketplaces with similar challenges. LeDuc asked if Biehn was suggesting one large group with zone representations or individual zone-based groups. Biehn said she was thinking of individual zone-based groups that could ultimately get together as a larger group, but the peer review would be zone-specific.

Stevens said he liked Biehn's idea and suggested that as self-certifications are received, the self-certified states could be asked to serve on the peer review groups, and one or two from each zone could be on the overall peer review group that would meet each year at a national meeting.

Lisa Brown (American Property and Casualty Insurance Association—APCIA) said it is important to get the different zones together in order to give the program heft with federal pushback. There must be national standards first and then these could be tweaked to meet zone market circumstances. If there are zone groups, they should meet at least once a year to be sure everyone is on the same page.

3. Discussed Plans for the Summer National Meeting

Haworth said the Working Group will be meeting at the Summer National on Monday, Aug. 12, at 4:00 p.m. He said the Working Group plans to have two fictional states mocked up, and as a group, the Working Group will complete self-certification scoring matrices for each of them. He said this will hopefully open discussion and answer questions that states have been struggling with or raise new questions for consideration. Stevens said the point is to answer a lot of the questions that have been coming in. Haworth said the Receivership (E) Task Force did something similar that worked well. Daniels asked if this would be available virtually. Randy Helder (NAIC) said he would look into it.

4. Discussed Certification Session at the NAIC Insurance Summit

Haworth said there will be a session at the NAIC Insurance Summit on the certification program. He said that he and Stevens will lead the session. It will be on Wednesday, Sept. 18, in the morning. Haworth said that rather than reviewing all the requirements, which everyone is familiar with, he and Stevens would like to ask for specific concerns and issues that jurisdictions would like us to address about the certification program, and the session can be devoted to discussing and clarifying those topics.

Lanasa suggested talking about qualifications for analysts and examiners because some states may not push designations as much as other states. He said it can be difficult if a state does not know whether it will have the budget to pursue designations. Haworth said turnover and succession planning are tangent concerns since seasoned people with those designations could leave. Lanasa said that is worsened by the difficulties in hiring new staff. Haworth said these new hires then need to be trained.

5. Discussed Certification Program Revisions

Haworth said the last agenda item is to discuss any proposed certification program revisions. This will be a standing agenda item for Working Group meetings, as the implementation plan requires the group to review feedback on issues or recommendations from jurisdictions, and it will allow for discussion of issues or recommendations.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/D Cmte/2024 Summer National Meeting/MRCWG/0624/06 MRCWG

Draft: 5/21/24

Market Regulation Certification (D) Working Group
Virtual Meeting
April 29, 2024

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 29, 2024. The following Working Group members participated: John Haworth, Chair (WA); Bryan Stevens, Vice Chair (WY); Chelsy Maller (AK); Teri Ann Mecca (AR); Erica Weyhenmeyer (IL); Mary Kwei (MD); Jo LeDuc (MO); Tracy Biehn (NC); Martin Swanson (NE); Maureen Belanger and Douglas Rees (NH); Erin Porter and Ralph Boeckman (NJ); Don Layson (OH); Glynda Daniels (SC); Shelley Wiseman (UT); Melissa Gerachis (VA); and Isabelle Turpin Keiser (VT).

1. Adopted its Spring National Meeting Minutes

LeDuc made a motion, seconded by Biehn, to adopt the Working Group's Feb. 26 minutes (*see NAIC Proceedings – Spring 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Four*). The motion passed unanimously.

2. Discussed its Plans for the Summer National Meeting

Haworth said the Working Group has been approved to meet in regulator-to-regulator session for one hour on the first day of the Summer National Meeting, Aug. 12, at 4:00 p.m. CT. He said the date and time only conflicts with the Financial Regulation Standards and Accreditation (F) Committee meeting, which is scheduled from 2:00 – 5:00 p.m. CT on Aug. 12.

Haworth said during its last meeting, the Working Group invited jurisdictions to submit their self-certifications using the scoring matrix. He said he wants to use the in-person meeting at the Summer National Meeting so the Working Group can work together using the certification scoring matrix on real examples from each member and state planning to submit a request for provisional certification.

Haworth said the certification implementation plan also mentions that jurisdictions can request peer reviews. He said the Summer National Meeting will provide an opportunity for any jurisdiction to receive peer review. He noted that LeDuc has volunteered to assist with peer review if requested.

LeDuc asked if the self-certification reports must be submitted prior to the Summer National Meeting. Haworth said the self-certification reports are due prior to the Fall National Meeting, but it would be helpful to receive them sooner so the Working Group can address needs as they arise. Stevens said it is important to have this in-person meeting to review different drafts and discuss how different states interpret the requirements and the checklist. He said it would help all the jurisdictions to be more uniform in their assessments.

3. Reviewed the Market Regulation Certification Scoring Sheet

Haworth asked Stevens to review the certification scoring sheet from the perspective of a smaller market regulation department. Stevens said that each requirement on the scoring sheet is programmed into several sections. The requirements are meant to identify the areas necessary to have the basic framework in place to run a market conduct program. He noted that even a small state such as Wyoming has met all the mandatory conditions and almost all other conditions.

Stevens said the first requirement is whether the jurisdiction has the authority to regulate insurance entities and collaborate with other states. He said if the state is accredited already, the jurisdiction should meet the requirement.

Stevens said the second requirement concerns the jurisdiction's ability to use the *Market Regulation Handbook*. He said that would be easy for jurisdiction to meet that requirement. He said many of the requirements speak of having policies and procedures in place, and he plans to have more policies and procedures written prior to the Summer National Meeting so he can confidently answer those questions on the checklist.

Stevens said the third and fourth requirements work together and address staffing—the appropriate staffing level, the use of contractors, and the qualification of staff and contractors. He said that for smaller jurisdictions, it is helpful that contractors are allowed in place of having a large, dedicated staff. A number of questions address the appropriate oversight of contracted examiners. Haworth said that even if an individual has a lot of designations, it is important to continually learn since the industry changes quickly. Steven said producers and adjusters have continuing education (CE) requirements, and the state insurance regulators should do so for themselves.

Stevens said the fifth requirement concerns the ability to keep confidential information confidential. Again, he said if the state is accredited, it likely already meets this requirement and can answer the checklist questions positively.

Stevens said the sixth requirement regards attendance and participation in the Market Actions (D) Working Group. He said each state has a collaborative action designee (CAD) who attends and has the ability to send their alternate if necessary.

Stevens said the seventh requirement deals with the Market Conduct Annual Statement (MCAS), and almost all states are participating in MCAS. LeDuc noted that two states and four territories do not participate in MCAS and asked if there was any latitude for those states. Haworth said the MCAS requirement is not mandatory, so a jurisdiction can be certified without participating in MCAS.

Stevens said the eighth requirement is timely and complete data reporting to the Market Information System (MIS) databases at the NAIC. He said most states already do so.

Stevens said the ninth requirement is attendance and participation in the NAIC market regulation working groups; the tenth is the appointment of a CAD for the jurisdiction. He has verified that they have representation or are an interested state insurance regulator for all the working groups.

Stevens said the final requirement is appointing a market analysis chief (MAC) and communicating appropriately with other internal departments concerning any issues with regulated insurance entities. He said it is easy for a small market regulation department like Wyoming's to communicate frequently with the other internal departments as needed. He said he meets weekly with the other internal departments.

Stevens said his department is ensuring they meet all the mandatory, red-coded requirements first and will address any yellow-coded requirements next. By their five-year assessment, they plan to meet all the conditions on the checklist.

4. Discussed Certification Program Revisions

Haworth said the last agenda item is to discuss any certification program revisions anyone would like to propose. He said this will be a standing agenda item for Working Group meetings since the implementation plan requires

the Working Group to review feedback from jurisdictions concerning issues or recommended issues, and it will allow discussion of any issues or recommendations.

Having no further business, the Market Regulation Certification (D) Working Group adjourned.

SharePoint/NAIC Support Staff Hub/Member Meetings/D Cmte/2024 Summer National Meeting/MRCWG/0429/04 MRCWG T

Draft: 8/14/24

Speed to Market (D) Working Group
Virtual Meeting
July 30, 2024

The Speed to Market (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 30, 2024. The following Working Group members participated: Rebecca Nichols, Chair (VA); Maureen Motter, Vice Chair (OH); Sian Ng-Ashcraft (AL); Trinidad Navarro (DE); Shannon Hohl (ID); Julie Rachford (IL); Craig VanAalst (KS); Tammy Lohmann (MN); Camille Anderson-Weddle (MO); LuAnne J. King (NH); Ted Hamby (NC); Latif Almazan (TX); Tanji J. Northrup (UT); Lichiou Lee (WA); Allan L. McVey (WV); and Lela Ladd (WY). Also participating were: George Bradner and Elizabeth Drysdale (CT).

1. Adopted its Feb. 22 Minutes

The Working Group met Feb. 22 and took the following action: 1) adopted its Nov. 17, 2023, minutes; 2) heard a report on the System for Electronic Rates & Forms Filing (SERFF) Modernization Project; 3) heard a report from the Interstate Insurance Product Regulation Commission (Compact); 4) considered adoption of revisions to the *Product Filing Review Handbook*; and 5) heard an update on the 2024 product coding matrix (PCM) adoption rating.

Northrup made a motion, seconded by Lohmann, to adopt the Working Group's Feb. 22 minutes (*see NAIC Proceedings – Summer 2022, Market Regulation and Consumer Affairs (D) Committee, Attachment Five*). The motion passed unanimously.

2. Heard a Report on the SERFF Modernization Project and SERFF Product Steering Committee

Bridget Kieras (NAIC) stated that state outreach has begun, and each state has been assigned a liaison from the NAIC SERFF team. The liaisons gather information and facilitate training. She said industry outreach is also taking place. Kieras stated the initial release is underway and on target for the fourth quarter of 2024. This will include co-existence in which all Compact filings, including historical filings, will be accessible in the new platform. State filings will remain in the current Legacy platform. User management functions will be handled in the new platform, which is largely self-service. This allows for the management of both the Legacy and new platforms. Also included is training. The NAIC Education & Training team will train industry, and the project team will train Compact staff and member state insurance regulators.

3. Received an Update on the Release of the 2024 Product Filing Review Handbook

Nichols provided an update on the *Product Filing Review Handbook*. The Working Group adopted the 2024 *Product Filing Review Handbook* Feb. 22. The Market Regulation and Consumer Affairs (D) Committee and Executive (EX) Committee and Plenary then adopted it at the Spring National Meeting. It was posted to the NAIC's website July 18 and is free to download from the NAIC Publications web page. A link to the *Product Filing Review Handbook* was added to the Working Group's web page July 19. Nichols stated that the NAIC Speed to Market Filing Suggestion Form was also updated and posted to the SERFF web page as part of that work.

4. Heard a Presentation on Using ML for P/C Form Review

Bradner stated that Connecticut started testing artificial intelligence (AI) and machine learning (ML) for property/casualty (P/C) form review in early 2020. Before implementing AI/ML, claims-made audits took up to a

year to complete. Bradner stated Connecticut was introduced to an AI/ML product called Kira. The turnaround went from 12 months to three months. Since using Kira, the state has learned that claims-made compliance was only 25%. Due to this, claims-made audits have been removed from the filing exemption (FE) process. Connecticut submitted a bulletin stating that claims-made audits will no longer be filed as exempt.

Drysdale stated that Connecticut's four goals for developing a speed-to-market review of forms were: 1) consistency; 2) speed; 3) harnessing knowledge from tenured individuals before retirement; and 4) creating capacity for examiners to do other things, such as look at legislation, propose legislation, and look at changes in the industry. The checklist was then developed into what Connecticut calls "smart fields." These fields in Kira tie to the checklist the machine has been taught to review. Drysdale stated the developers developed the application programming interface (API) so that the two platforms can speak to each other. She stated some of the simple features of ML are the length of time it takes and that it is user-friendly if one has been around computers for a while in any capacity.

Bradner said it is better to spend time working with AI/ML now so that states are ready when the SERFF Modernization Project is complete; otherwise, they will be behind in 2025. Bradner said it would be worthwhile for states to think about what rules they will want to apply to filings so they can train the system.

Theresa Boyce (Chubb Group) asked if now that claims-made audits are no longer exempt, is Connecticut still using Kira to review any filings for exemption.

Bradner replied, yes, the first step is to run it through Kira, and then it is assigned to the examiner.

5. Discussed Suggestions Received on the PCM and UTD

Motter went over three suggestions for the PCM and uniform transmittal document (UTD). The first was the Compact's proposal for annuity products. The Compact recently adopted uniform standards for individual deferred index link variable annuity contracts. Motter said that, presently, a filer would include them under the Type of Insurance (TOI) of A03I or A07I, which are not the best places to file these products. The Compact recommended that an additional TOI be created. Motter stated that A04I is available, and they would call it the Individual Deferred Index Link Variable Annuity Contract, with the following sub-TOIs: A04I.0001 Fixed Premium, A04I.0002 Flexible Premium, A04I.0003 Single Premium, A04I.0004 Modified Single Premium, and A04I.0005 Limited Flexible Premium.

Motter explained the Compact's definition of the proposed new TOI A04I as an annuity contract that earns interest or provides benefits where the accumulation is linked to an external reference or equity index where upside returns are limited through the application of caps, participation rates, or triggers, and where downside returns limited to a floor, or with a portion of downside returns absorbed by a buffer. Prior to the end of the index term, the contract uses an interim value to determine withdrawal, surrender, death, and annuity benefits instead of using the account value at the beginning of the term.

Motter said things to consider for adoption of the new TOI and sub-TOIs are: 1) whether the Working Group is in agreement that the addition is appropriate since the uniform standard was created; 2) any amendments/revisions to the proposed description; and 3) whether the Working Group should wait to create something similar to A04G.

Commissioner McVey made a motion, seconded by Ladd, to adopt the Compact's proposal. The motion passed unanimously.

Motter moved on to the second proposal, which was to split Health-Other into individual and group TOIs. Motter explained this indicates that the health TOIs for products are divided into groups and individuals. It becomes unhelpful when Health-Other is used as a catch-all to apply to both individual and group products, especially when each market is subject to different regulatory requirements. She said that unlike the assumptions for TOI (H01), items filed under Health-Other can apply to amend products in either or both markets beyond the merely informational. Currently, the PCM has TOI: H21 Health-Other.

Motter asked whether the description should be updated to say, "Not Specifically Described in any other H TOI," since TOIs H22-H26 have been added.

Motter said the following questions should also be considered:

- A. What is being filed in H21?
- B. Does what is being filed in H21 require different submission requirements for individual versus group or individual versus different sizes of groups?
- C. Will adding sub-TOIs to H21 result in filers using these sub-TOIs instead of the proper H01–H26 TOIs?
- D. If any, how many more sub-TOIs should be added to H21?
- E. In addition to sub TOI H21.0000 Health-Other, should the Working Group add Health-Other – Individual Only & Health - Other- Group Only?
- F. In addition to sub TOI H21.0000 Health-Other, should the Working Group add Health-Other – Individual Only & Health-Other- Small Group Only & Health-Other-Large Group Only & Health-Other-Any Size Group?
- G. If more sub-TOIs are added, would you activate them for filers' use?

Lee stated that in Washington, H21 is rarely used.

The Working Group made no motion. Motter stated that because there was no motion, there would be no changes to the description or additional sub-TOIs for H21 at this time.

Motter moved on to the third proposal, which was to split Health-Other into individual and group TOIs. Motter explained that the proposal indicates that not every state considers pet health and/or animal mortality insurance to be in the inland marine line of business, filed or non-filed. Making pet insurance-specific TOIs could eliminate ambiguity in filing. She went on to say, with continued emphasis on the *Pet Insurance Model Act* (#633), that it may be opportune for pet insurance to feature more prominently in the PCM, and since animal mortality is the commercial counterpart, similar prominence should apply to it.

Motter said there were several items to consider regarding the proposal, including: 1) existing sub-TOIs; 2) the fact that *Annual Statement Instructions* have historically indicated to place premiums/losses for both on Line 9, Inland Marine; 3) the Blanks (E) Working Group has approved a separate annual statement line for pet insurance, so the PCM document will be updated to reflect the new annual statement line reference; 4) while many states require the authority of inland marine on a Certificate of Authority to offer such products, others may have more granularity in authority, such as a specific authority for pet insurance; 5) if 9.1 and 9.2 are created, the historical filing submissions will not be updated from the old sub-TOI to the new TOI; 6) if a state chooses to adopt, it would have to inactivate the old sub-TOI for submissions; and 7) when searching for filings, SERFF users would have to search on both the new TOI for the most recent filings and the inactive sub-TOI for the historical filings.

Motter said the Working Group should also consider the following questions in regard to the third proposal:

- A. Have there been issues with filers submitting products without proper authority?
- B. Should there be an asterisk on the PCM with a note to review the line of authority requirements for a state prior to submission? (A non-PCM solution would be to update the SERFF general instructions to

remind filers of the necessary authority to offer such products. The SERFF Modernization Project is planning to map authority and sub-TOIs, so the filer will be warned or not permitted to submit if it does not have proper authority for the product.)

- C. If these new TOIs are created, would they be activated?

Motter stated that the lack of comments suggested that the new TOIs would not be activated if they were created.

6. Heard an Update on the 2025 PCM

Jeremy Chance (NAIC) stated updates would be made after the Compact's first proposal is approved. The process will begin with contacting the appropriate SERFF state instances to activate the new TOI (A04I) and build submission requirements.

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

SharePoint/NAIC Support Staff Hub/Committees/Committee Folders/D CMTE/2024 Fall/S2M WG/S2M July 30 Meeting Minutes