

## MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE

Market Regulation and Consumer Affairs (D) Committee Nov. 19, 2024, Minutes

2025 Proposed Charges (Attachment One)

Revisions to the *Market Regulation Handbook's* Chapter 23—Conducting the Life and Annuity Examination (Attachment Two)

Proposed Amendments to the Uniform Producer Licensing Applications (Attachment Three)

CE Audit Guidelines (Attachment Four)

*Public Adjuster Licensing Model Act (#228)* (Attachment Five)

Market Analysis Procedures (D) Working Group Oct. 21, 2024, Minutes (Attachment Six)

Market Conduct Annual Statement Blanks (D) Working Group Sep. 5, 2024, Minutes (Attachment Seven)

Market Conduct Examination Guidelines (D) Working Group Nov. 7, 2024, Minutes (Attachment Eight)

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

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

## Draft Pending Adoption

Draft: 11/22/24

Market Regulation and Consumer Affairs (D) Committee  
Denver, Colorado  
November 19, 2024

The Market Regulation and Consumer Affairs (D) Committee met in Denver, CO, Nov. 19, 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); 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 John Arnold (ND); Scott Kipper (NV); Michael Humphreys and David Buono (PA); and Cassie Brown represented by Matthew Tarpley and Randall Evans (TX). Also participating were: Larry D. Deiter (SD); Rebecca Nichols (VA); John Haworth (WA); and Rebecca Rebholz (WI).

### 1. Adopted its Summer National Meeting Minutes

Director Richardson made a motion, seconded by Commissioner Navarro, to adopt the Committee's Aug. 15 minutes (see *NAIC Proceedings – Summer 2024, Market Regulation and Consumer Affairs (D) Committee*). The motion passed unanimously.

### 2. Adopted its 2025 Proposed Charges

Commissioner Pike said the Market Regulation and Consumer Affairs (D) Committee charges include the adoption of the charges for the Antifraud (D) Task Force, the Producer Licensing (D) Task Force, and the disbanding of the Market Information Systems (D) Task Force. He said the activities of the Market Information Systems (D) Task Force are very technical, and this work will now be moved to a Market Information Systems (D) Working Group reporting to the Committee. The intent is to streamline the reporting while maintaining the activities that have been occurring under the Task Force. Commissioner Pike said the other substantive change to the charges for 2025 is the Producer Licensing (D) Task Force will not reappoint the Public Adjuster Licensing (D) Working Group because the Working Group completed its review and recommendations on amending the NAIC's *Public Adjuster Licensing Model Act* (#228).

LeDuc made a motion, seconded by Commissioner Clark, to adopt the Committee's 2025 proposed charges (Attachment One). The motion passed unanimously.

### 3. Adopted Revisions to the *Market Regulation Handbook*

Tarpley said revisions to Chapter 23—Conducting the Life and Annuity Examination of the *Market Regulation Handbook* were adopted by the Market Conduct Examination Guidelines (D) Working Group on Nov. 7. He said the purpose of the revisions is to update the chapter based on 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).

Tarpley said the revisions to the chapter occur in:

- Operations/Management Examination Standard 1.
- Subsection 2 Techniques of Section C, Marketing and Sales.
- Marketing and Sales Examination Standards 1, 4, and 14.
- The supplemental checklist for Marketing and Sales Examination Standard 4.

## Draft Pending Adoption

Tarpley said the majority of changes reflected the revised title of AG 49-A. A few revisions removed unnecessary references to the original adoption in 2015. Lastly, implementation testing examples were removed because examiners are no longer testing for implementation compliance issues from 2015 or 2016.

Schott made a motion, seconded by LeDuc, to adopt the revisions to Chapter 23—Conducting the Life and Annuity Examination of the *Market Regulation Handbook* (Attachment Two). The motion passed unanimously.

#### 4. Adopted Proposed Amendments to the NAIC Uniform Producer Licensing Applications and Continuing Education (CE) Audit Guidelines

Director Deiter said the Producer Licensing Uniformity (D) Working Group completed its review and adopted proposed changes to the Individual Uniform Application on May 7. Then, on June 4, it adopted proposed changes to the Individual Renewal Uniform Application, the Business Entity Application, and the Business Entity Renewal Application.

Director Deiter said that based on prioritization of existing strategic priorities, the National Insurance Producer Registry (NIPR) reported during the Summer National Meeting that the work on amending the Uniform Producer Licensing Application will begin in October 2025. NIPR estimates development will be completed by February 2026, and implementation into production will be scheduled between March and May 2026.

Director Deiter said that after the Summer National Meeting, a request for comments was circulated on the proposed amendments and the timeline for implementation. He said that other than some formatting and grammatical edits from Ohio, which will be addressed with implementation, no comments were submitted on the proposed amendments and timeline for implementation.

Director Deiter said the Producer Licensing (D) Task Force adopted the proposed changes and the timeline for implementation on Oct. 31.

Director Deiter also said the Task Force adopted continuing education (CE) audit guidelines on Nov. 17. He said the Uniform Education (D) Working Group adopted the guidelines on Oct. 29. The Working Group developed the audit guidelines for each state to use for auditing courses of its home state providers and to avoid duplicative audits by states. The guidelines provide detailed steps for the audit process.

Commissioner Clark made a motion, seconded by Commissioner Navarro, to adopt the amendments to the Uniform Producer Licensing Application (Attachment Three) and the CE Audit Guidelines (Attachment Four). The motion passed unanimously.

#### 5. Adopted Proposed Amendments to the NAIC's Public Adjuster Licensing Model Act (#228)

Commissioner Pike said the Producer Licensing (D) Task Force adopted amendments to the Model #228 on Nov. 17. He said that, in consultation with the NAIC legal division, it was subsequently determined that two technical edits were necessary to ensure the proposed model is presented in the correct format as it progresses. He said these technical edits do not change policy and only address drafting oversights by removing language that is no longer applicable due to the proposed amendments. These edits align with the revisions included in the amendments adopted by the Task Force.

Commissioner Navarro said he was pleased to present the proposed amendments to Model #228 following the NAIC Membership's adoption of a model law review request at the 2024 Spring National Meeting. He said the model law review request provided guidance that Model #228 should be amended to strengthen regulatory

## Draft Pending Adoption

standards governing the conduct of public adjusters on 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 (AOB) rights; and 4) excessive fees charged by public adjusters.

Commissioner Navarro said the Public Adjuster Licensing (D) Working Group moved forward with the work by seeking comments on draft revisions and meeting on April 5. After the April 5 meeting, another request for comments was circulated, and a second meeting was held on June 18.

During the April 5 meeting, the Working Group discussed proposed modifications to Section 3 and Section 14, which address public adjuster fees. During the June 18 meeting, the Working Group focused on proposed amendments to Section 15, Section 16, and Section 19 to strengthen regulatory standards regarding individuals acting as unlicensed public adjusters, contractors who are also acting as public adjusters on the same claim, and inappropriate AOB rights. He said the Working Group adopted the proposed amendments on July 17 and presented the model to the Producer Licensing (D) Task Force at the Summer National Meeting.

Commissioner Navarro said that because of industry concerns regarding proposed fee caps of 10% for catastrophe claims and 15% for all other claims, the Task Force provided the industry with an opportunity to present its concerns to the Task Force at the meeting and then accepted additional written comments after the meeting.

Commissioner Navarro said the Task Force met Oct. 31 and again invited the industry to comment on the model. The Task Force adopted the model on Nov. 17.

Commissioner Navarro said the amendments to the model law are:

- The “Purpose and Scope” section of the model law is being amended to exclude public adjusters settling claims for either personal or commercial auto lines of insurance.
- Section 3A is being amended to prohibit a person from soliciting or negotiating a contract for public adjusting services unless the person is licensed as a public adjuster.
- Section 14 is being amended to provide specific guidance 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.
- Section 15H is being amended to require an insurer to verify that a public adjuster holds a valid license with a department of insurance.
- Section 15L is a new section addressing inappropriate AOBs. This section specifies that the rights under an insurance policy may only be assigned to a person who has the legal authority to represent the named insured or a subsequent owner of the property and prohibits the assignment of rights and benefits to any other person, including a property repair contractor.
- Section 16 is a new section that provides clarification that a person who conducts business as a public adjuster without a proper license is committing a fraudulent insurance act.
- There are two new sections being added to Section 19. The first amendment prohibits a public adjuster from inferring damage has occurred unless an inspection has been completed. The second amendment prohibits a public adjuster from paying an insured’s deductible or claiming the insured’s deductible will be waived.
- Section 19F was amended to prohibit a public adjuster from having a financial interest in any aspect of a claim other than the salary or fee for public adjusting services.
- Section 19H was amended to prohibit a public adjuster from referring the insured to get needed repairs from any person with whom the public adjuster has a financial interest. A public adjuster is also prohibited from receiving compensation for any referral for repairs. With the amendments to Section 19H, Section 19G was deleted.

## Draft Pending Adoption

Commissioner Navarro made a motion, seconded by Commissioner Humphreys, to adopt the amendments to the Model #228 (Attachment Five). The motion passed unanimously. Arizona and Texas abstained.

### 6. Adopted its Task Force and Working Group Reports

#### A. Antifraud (D) Task Force

Commissioner Navarro said the Antifraud (D) Task Force met Nov. 18 and adopted its Oct. 31 and Summer National Meeting minutes. The Task Force also discussed its 2025 proposed charges.

Commissioner Navarro said the Task Force heard presentations from the American Academy of Actuaries (Academy) concerning the impacts on premiums and claim costs on the public, and it also heard a presentation from Health Agents for America (HAFA) on federal fraud prevention efforts concerning agents.

Commissioner Navarro said the Task Force adopted the report from the Improper Marketing of Health Insurance (D) Working Group. He said the Working Group received updates from the federal Centers for Medicare & Medicaid Services (CMS) on efforts to address unauthorized agent transfers of policies. Additionally, the Working Group was informed about issues related to Special Enrollment Periods (SEPs) and other Medicare Advantage open enrollment matters. He said the Working Group also listened to a presentation from HAFA regarding federal fraud prevention efforts concerning agents.

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 new NAIC web service for the Online Fraud Reporting System (OFRS). Additionally, the Working Group plans to hold open conference calls in 2025 to review suggested enhancements to the OFRS.

Commissioner Navarro said the Task Force heard reports on antifraud activity from the Coalition Against Insurance Fraud (CAIF) and the National Insurance Crime Bureau (NICB).

#### B. Producer Licensing (D) Task Force

Director Deiter said the Producer Licensing (D) Task Force met Nov. 17 and Oct. 31. In addition to adopting the revisions to the NAIC's Uniform Producer Licensing Application and the CE audit guidelines, the Task Force continued to discuss the 1033 waiver template, which is being developed as a resource that states can voluntarily use to enhance their review of 1033 waiver requests.

Director Deiter said that NIPR is offering producer licensing zone training in collaboration with the NAIC. He said this program will discuss the intricacies of producer licensing practices, tackle current and emerging industry issues, and foster peer regulator dialogue. There will be two zone training courses offered in 2025, and the funding will cover all expenses for two regulators from each respective zone to attend the in-person training. He said the Midwest Zone has already reserved one of the slots. He said any interested zone should contact Laurie Wolf (NIPR) for more information on the training.

Director Deiter said the Adjuster Licensing (D) Working Group is continuing its review of the adjuster licensing chapter of the *State Licensing Handbook* and concluding its work on a survey concerning the verification of designated home state data submitted to the State Producer Licensing Database (SPLD).

Director Deiter said the Producer Licensing Uniformity (D) Working Group is assessing what chapters of the *State Licensing Handbook* warrant further discussion for potential revisions.

## Draft Pending Adoption

Director Deiter said the Uniform Education (D) Working Group is discussing draft guidelines for CE course introduction statements and beginning a review of chapters of the *State Licensing Handbook* that address pre-licensing education, continuing education, and examinations.

### C. Market Analysis Procedures (D) Working Group

LeDuc said the Market Analysis Procedures (D) Working Group met Oct. 21 and adopted its Summer National Meeting minutes. The Working Group also received an update from the Market Analysis Prioritization Tool (MAPT) Recommendations group. The group has been diligently working through all sections of the MAPT looking for ways to enhance the prioritization tool. She said some of the more significant recommendations this group will be putting forward to the Working Group for consideration include:

- Eliminating data elements that do not add value to the overall result.
- Retaining data elements that provide context around the data but not using them in the actual prioritization mechanism.
- Adding new data elements, including data elements from data sources such as the Market Conduct Annual Statement (MCAS) that were unavailable when MAPT was developed.

LeDuc said the Working Group also discussed the Market Analysis Review System (MARS) Level 1 requirements. She said that in 2016, the Working Group adopted a plan to gradually increase the Level 1 requirement from 10 reviews per jurisdiction in 2017 to 30 reviews by 2021. Only 17 states, however, are currently on track to complete 30 Level 1 reviews in 2024. LeDuc said several factors were identified as possible contributors to this trend, including the COVID-19 pandemic, high employee turnover, and the lack of a national analysis being pursued in recent years. She said that as part of the discussion, the Working Group touched on the relationship between Level 1 analyses and the Voluntary Market Regulation Certification Program and discussed the possibility of state-specific requirements based on varying considerations.

LeDuc said the Working Group also discussed ratio No. 7 on the private passenger auto (PPA) and homeowners MCAS blanks. This ratio compares the reported number of lawsuits to the reported claims closed without payment. She said the discussion centered around whether the data elements currently used in calculating the ratio were producing meaningful results. The Working Group will continue to discuss potential changes to the ratio in its next meetings.

LeDuc said the Working Group's lunch-and-learn sessions continue. She thanked Luis Marquez (NY) and Brett Bache (RI) for their insightful talk on using MARS Level 1 data and for providing valuable advice on using Level 1's in the market analysis process. She said the Working Group plans on continuing its lunch-and-learn sessions, with the next one focusing on Level 2 reviews.

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

Rebholz said the Market Conduct Annual Statement Blanks (D) Working Group met Sept. 5 and adopted its July 11 meeting minutes. Rebholz said the Working Group considered the removal of duplicate data element No. 51 from the other health MCAS and reviewed the next steps related to the other health MCAS blank interrogatory question No. 5 and additional items related to comments received regarding the other health MCAS blank. She said the Working Group also discussed a draft of frequently asked questions (FAQ) and definitions related to artificial intelligence (AI) and machine learning (ML) in the life and annuity MCAS blank. Rebholz said the Working Group also considered draft definitions for "Partial Payment" and "Cancellation" for the pet insurance MCAS blank.

## Draft Pending Adoption

Rebholz said the Working Group has formed a subject matter expert (SME) group to review the PPA MCAS blank.

### E. Market Conduct Examination Guidelines (D) Working Group

Tarpley said the Market Conduct Examination Guidelines (D) Working Group met Nov. 7. In addition to adopting the revisions to Chapter 23—Conducting the Life and Annuity Examination of the *Market Regulation Handbook*, the Working Group received an update on the progress made by the regulator-only pet insurance SMEs on the development of a new pet insurance examination chapter in the *Market Regulation Handbook* and development of new pet insurance standardized data requests (SDR). He said the SMEs are creating new examiner guidance based on the *Pet Insurance Model Act* (#633). When the SMEs complete their drafting work, the drafts will be publicly exposed.

Tarpley said the Working Group received an update on the progress made by the regulator-only travel insurance SMEs who are updating the travel 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 the underwriting and rating standard 1. He said they are creating the content based on the *Travel Insurance Model Act* (#632).

Tarpley said that on Oct. 29, the Working Group launched its group page on NAIC Connect. The Working Group discussed the applicability of the NAIC Connect platform as a possible means to address its charge to develop a shared regulator-only collaborative space where state insurance regulators can share tools, such as exam call letter templates, report templates, and other helpful market regulation tools. He said the Working Group discussed that the Connect page can also be considered an opportunity to address the Working Group's charge to coordinate with the Innovation, Cybersecurity, and Technology (H) Committee in the development of market conduct examiner guidance for the oversight of regulated entities' use of AI.

Tarpley said the Working Group received a formal referral from the Accelerated Underwriting (A) Working Group, regarding a regulatory guidance document designed to provide a framework for state insurance regulators to reference when evaluating life insurers' use of accelerated underwriting programs. He said the Accelerated Underwriting (A) Working Group will collaborate with the Market Conduct Examination Guidelines (D) Working Group in 2025 to draft market conduct guidance based on the Accelerated Underwriting (A) Working Group's adopted regulatory guidance document.

### F. Market Regulation Certification (D) Working Group

Haworth said the Market Regulation Certification (D) Working Group met Sept. 23 and discussed the implementation plan for the peer review process for both self-certifying and fully certifying jurisdictions in the certification program. He said the implementation plan states that jurisdictions can request peer review, guidance, and training at any time. During the discussion, the Working Group explored ideas for a peer review program and the importance of similarly situated NAIC zone-specific peer review groups but also recognized the importance of maintaining national consistency among the jurisdictions. He said that to avoid unwritten zone-specific standards, the Working Group is considering a single national peer review group with representation from each zone, including both large and small states.

Haworth said the Working Group also heard requests to make the scoring matrix more user-friendly. Vice-chair Bryan Stevens (WY) has streamlined the scoring matrix, which was used during the Summer National Meeting exercises, and is also developing a new format with fillable response fields to allow for more detailed self-certification. He said that currently, an editable Word version of the checklist and scoring matrix is available on the Market Regulation and Consumer Affairs (D) Committee's Connect page.

## Draft Pending Adoption

Haworth said that 11 jurisdictions—Connecticut, Iowa, Kentucky, Louisiana, Minnesota, Missouri, Oklahoma, Vermont, Virginia, Washington, and Wisconsin—have submitted their self-assessments and are now provisionally certified. The Working Group is also aware of several states that are planning to submit self-certification assessments. He encouraged all states to conduct a self-certification assessment and forward it to the Working Group through NAIC staff support. He said any self-assessment will be automatically provisionally certified. Haworth said that he and Stevens hosted a session on the certification program at the NAIC Insurance Summit in September and addressed a number of concerns about the certification program requirements, including:

- Concerns about staffing, hiring, and training new individuals.
- Concerns about the qualifications for examiners.
- Training processes within states that may not be able to require employees to obtain specific designations.
- The need for training market analysts and finding more ways to provide this training for new hires.

### G. Speed to Market (D) Working Group

Nichols said the Speed to Market (D) Working Group met Oct. 31 and adopted its July 30 meeting minutes via an e-vote. During its Oct. 31 meeting, the Working Group heard a presentation from Bridget Kieras (NAIC), who provided an update on the System for Electronic Rates & Forms Filing (SERFF) modernization project, which is posted to the Working Group's webpage. Nichols said the Working Group also heard an update from Renee Brownfield (NAIC) on the implementation of changes to the 2025 product coding matrices (PCMs), which included a new type-of-insurance (TOI) and five subtypes-of-insurance (sub-TOIs) adopted by the Working Group, which will be effective on Jan. 1, 2025. Nichols said the Working Group also received an update from Sue Ezalarab (Interstate Insurance Product Regulation Commissions—Compact) on the Compact's work in 2024.

Nichols said that when the Working Group adopted the updated version of the *Product Filing Review Handbook* earlier in the year, it discussed the importance of revisiting the handbook periodically to ensure that it remains up to date on the technical and substantive content and remains accurate, current, and complete. The details for making these reviews and revisions will be established at a subsequent Working Group conference.

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

### 7. Heard an Update on Federal Activities

Alexander Swindle (NAIC) said that the 2024 election resulted in a second Trump administration and a new Republican majority in the Senate and likely in the House of Representatives as well. He said cabinet picks are still being announced and will require Senate confirmation, but a significant shift away from the Biden administration's policies can be expected.

Swindle said President-Elect Trump has promised aggressive regulatory cuts, aiming to eliminate 10 rules for every new one implemented. This continues the deregulation efforts from his first term. However, rolling back existing consumer protection regulations may face legal challenges, as such actions require a formal process, including public comment periods.

Swindle said that during his first term, Trump appointed leaders like Mick Mulvaney to head the Consumer Financial Protection Bureau (CFPB), who reduced enforcement and fines. Swindle said that going forward, Trump's



## Draft Pending Adoption

administration can be expected to prioritize a lighter regulatory approach, with pro-business leaders appointed to key agencies such as the Federal Trade Commission (FTC). Swindle said the Trump administration may also use the Congressional Review Act (CRA) to roll back certain rules published by the CFPB. Under the CRA, Congress has 60 days to override rules passed by executive agencies. While challenging, this is more feasible with a Republican-controlled Congress. Among the targets could be recently finalized rules by the CFPB, such as those around consumer reporting of medical debt, financial data rights, and non-bank enforcement. Swindle said the new CFPB director is also likely to revisit or revise guidance and interpretive rules issued by current Director Rohit Chopra. He said Chopra has relied heavily on such non-rulemaking guidance to shape the CFPB's policies, but this would lose power if the new director took a different approach. Recent FTC regulations, including the recent "click-to-cancel" rule and ban on fake reviews, have broad support and are less likely to be targeted.

Swindle said that after an active hurricane season, the CFPB, Federal Communication Commission (FCC), and the Federal Emergency Management Agency (FEMA) have been warning consumers of post-storm fraud and scams. Resources like the FEMA disaster fraud hotline are expected to stay in place, but the NAIC will be monitoring any changes in the next administration's approach.

Swindle said the expected lighter regulatory environment will likely spur innovation and competition in the fintech sector, as new financial products can enter the market with fewer constraints. However, as fintech grows, its potential impact on the stability of the financial system will likely prompt increased scrutiny from state regulators. Additionally, President-Elect Trump may continue efforts to regulate big tech, building on the work of his first administration to address monopolistic practices.

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

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Draft: 11/4/24

*Adopted by the Executive (EX) Committee and Plenary, Dec. XX, 2024*

*Adopted by the Market Regulation and Consumer Affairs (D) Committee, Nov. 19, 2024*

## **2025 Proposed Charges**

### **MARKET REGULATION AND CONSUMER AFFAIRS (D) COMMITTEE**

The mission of the Market Regulation and Consumer Affairs (D) Committee is to monitor all aspects of the market regulatory process for continuous improvement. This includes market analysis, regulatory interventions with companies, and multi-jurisdictional collaboration. The Committee will also review and make recommendations regarding the underwriting and market practices of insurers and producers, as those practices affect insurance consumers, including the availability and affordability of insurance.

#### **Ongoing Support of NAIC Programs, Products, or Services**

1. The **Market Regulation and Consumer Affairs (D) Committee** will:
  - A. Monitor the centralized collection and storage of market conduct data, national analysis, and reporting at the NAIC, including issues regarding the public availability of data. (*Ongoing Maintenance*)
  - B. Monitor and assess the current process for multi-jurisdictional market conduct activities, and provide appropriate recommendations for enhancement, as necessary. (*Ongoing Maintenance*)
  - C. Oversee the activities of the Antifraud (D) Task Force. (*Ongoing Maintenance*)
  - D. Oversee the activities of the Producer Licensing (D) Task Force. (*Ongoing Maintenance*)
  - E. Monitor the underwriting and market practices of insurers and producers, as well as the conditions of insurance marketplaces, including urban markets, to identify specific market conduct issues of importance and concern. Hold public hearings on these issues at the NAIC national meetings, as appropriate. (*Ongoing Maintenance*)
  - F. In collaboration with other technical working groups, discuss and share best practices through public forums to address broad consumer concerns regarding personal insurance products. (*Ongoing Maintenance*)
  - G. Coordinate with the International Insurance Relations (G) Committee to develop input and submit comments to the International Association of Insurance Supervisors (IAIS) and/or other related groups on issues regarding market regulation concepts. (*Ongoing Maintenance*)
  - H. Coordinate with the Health Insurance and Managed Care (B) Committee to provide policy recommendations regarding uniform state enforcement of the federal Affordable Care Act (ACA). (*Ongoing Maintenance*)
  
2. The **Advisory Organization (D) Working Group** will:
  - A. Revise the protocols, as necessary, for the examination of national or multistate advisory organizations (including rating organizations and statistical agents) to be more comprehensive and efficient. Solicit input and collaboration from other interested and affected committees and task forces. (*Ongoing Maintenance*)
  - B. Monitor the data reporting and data collection processes of advisory organizations (including rating organizations and statistical agents) to determine if they are implementing appropriate measures to ensure data quality. Report the results of this ongoing charge, as needed. (*Ongoing Maintenance*)
  - C. Actively assist with and coordinate multistate examinations of advisory organizations (including rating organizations and statistical agents). (*Ongoing Maintenance*)

3. The **Market Actions (D) Working Group** will:
  - A. Facilitate interstate communication, and coordinate collaborative state regulatory actions. (*Ongoing Maintenance*)
  - B. Facilitate interstate communication, and coordinate collaborative state regulatory activities involving nontraditional market actions through the Coordinated Market Investigation Subgroup. (*Ongoing Maintenance*)
4. The **Market Analysis Procedures (D) Working Group** will:
  - A. Recommend changes to the market analysis framework based on results over the past five years, including the current set of Level 1 and Level 2 questions. (*Ongoing Maintenance*)
  - B. In accordance with the second recommendation of the adopted *Review of Artificial Intelligence Techniques in Market Analysis*, 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. (*Ongoing Maintenance*)
  - C. Discuss other market data collection issues, and make recommendations, as necessary. (*Ongoing Maintenance*)
  - D. Consider recommendations for new lines of business for the Market Conduct Annual Statement (MCAS). (*Ongoing Maintenance*)
  - E. Create and monitor the effectiveness and usefulness of public MCAS ratios. (*Ongoing Maintenance*)
5. The **Market Conduct Annual Statement Blanks (D) Working Group** will:
  - A. Review the MCAS data elements and the “Data Call and Definitions” for those lines of business that have been in effect for more than three years and update them, as necessary. (*Ongoing Maintenance*)
  - B. Develop an MCAS blank to be used for the collection of data for additional lines of business, where appropriate. (*Ongoing Maintenance*)
6. The **Market Conduct Examination Guidelines (D) Working Group** will:
  - A. Develop market conduct examination standards, as necessary, for inclusion in the *Market Regulation Handbook*. (*Ongoing Maintenance*)
  - B. Monitor the adoption and revision of NAIC models, and develop market conduct examination standards to correspond with adopted NAIC models. (*Ongoing Maintenance*)
  - C. Develop updated standardized data requests, as necessary, for inclusion in the *Market Regulation Handbook*. (*Ongoing Maintenance*)
  - D. Discuss the development of uniform market conduct procedural guidance (e.g., a library, repository, or shared collaborative space with market conduct examination templates, such as an exam call letter, exam exit agenda, etc.) for inclusion in, or for use in conjunction with, the *Market Regulation Handbook*. (*Ongoing Maintenance*)
  - E. Coordinate with the Innovation, Cybersecurity, and Technology (H) 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). (*New Product*)
7. The **Market Information Systems (D) Working Group** will:
  - A. Analyze the data in the NAIC Market Information Systems (MIS). In accordance with the first recommendation of the adopted *Review of Artificial Intelligence Techniques in Market Analysis*, recommend methods to ensure better data quality.
  - B. In conjunction with the Market Analysis Procedures (D) Working Group and in accordance with the second recommendation of the adopted *Review of Artificial Intelligence Techniques in Market Analysis*, 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.

- C. Provide guidance on the appropriate use of the MIS and the data entered in them.
    - i. Complaints Database System (CDS).
    - ii. Electronic Forums.
    - iii. Market Actions Tracking System (MATS).
    - iv. Market Analysis Profile.
    - v. Market Analysis Prioritization Tool (MAPT).
    - vi. Market Analysis Review System (MARS).
    - vii. Market Conduct Annual Statement (MCAS).
    - viii. Regulatory Information Retrieval System (RIRS).
    - ix. 1033 State Decision Repository (SDR1033) (in conjunction with the Antifraud (D) Task Force).
  - D. Serve as the business partner to review and prioritize submitted Uniform System Enhancement Request (USER) forms to ensure efficient use of available NAIC staffing and resources.
8. The **Market Regulation Certification (D) Working Group** will:
- A. Implement the *Voluntary Market Regulation Certification Program* by: i) provisionally certifying each jurisdiction that submits a self-certification report; ii) assessing the submission and monitoring the progress of each provisionally certified jurisdiction towards compliance to each certification standard; and iii) providing peerreview and guidance for any participating jurisdiction that requests guidance. (*Ongoing Maintenance*)
  - B. Develop a mechanism for enabling participating jurisdictions to apply for full certification. This will include: i) forming an NAIC review team and ii) developing methods for assessing and auditing full-certification requests. (*Ongoing Maintenance*)
  - C. Review feedback from jurisdictions concerning any issues or recommended changes to the *Voluntary Market Regulation Certification Program* requirements and the *Market Regulation Certification Program Self-Assessment Guidelines* and *Checklist Tool*. (*Ongoing Maintenance*)
  - D. Consider new standards to be incorporated into the *Voluntary Market Regulation Certification Program*. (*Ongoing Maintenance*)
9. The **Speed to Market (D) Working Group** will:
- A. Consider proposed System for Electronic Rates & Forms Filing (SERFF) features or functionality presented to the Working Group by the Product Steering Committee (PSC). Review periodic reports from the PSC, as needed. (*Ongoing Maintenance*)
  - B. Provide feedback and recommendations concerning the SERFF modernization when requested by the Executive (EX) Committee and any group assigned oversight of the SERFF modernization by the Executive (EX) Committee. (*Ongoing Maintenance*)
  - C. Discuss and oversee the implementation and ongoing maintenance/enhancement of speed-to-market operational efficiencies related to product filing needs, efficiencies, and effective consumer protection. This includes the following activities:
    - i. Provide a forum to gather information from the states and the industry regarding tools, policies, and resolutions to assist with common filing issues. Provide oversight in evaluating product filing efficiency issues for state insurance regulators and the industry, particularly regarding uniformity. (*Ongoing Maintenance*)
    - ii. Use SERFF data to develop, refine, implement, collect, and distribute common filing metrics that provide a tool to measure the success of the speed-to-market modernization efforts, as measured by nationwide and individual state speed-to-market compliance, with an emphasis on monitoring state regulatory and insurer responsibilities for speed to market for insurance products. (*Ongoing Maintenance*)

- iii. Facilitate proposed changes to the product coding matrices (PCMs) and the uniform transmittal document (UTD) on an annual basis, including the review, approval, and notification of changes. Monitor, assist with, and report on state implementation of any PCM changes. (*Ongoing Maintenance*)
- iv. Facilitate the review and revision of the *Product Filing Review Handbook*, which contains an overview of all the operational efficiency tools and describes best practices for industry filers and state reviewers regarding the rate and form filing and review process. Develop and implement a communication plan to inform the states about the *Product Filing Review Handbook*. (*Ongoing Maintenance*)
- D. Provide direction to NAIC staff regarding SERFF functionality, implementation, development, and enhancements. Receive periodic reports from NAIC staff, as needed. (*Ongoing Maintenance*)
- E. Conduct the following activities, as desired, by the Interstate Insurance Product Regulation Commission (Compact):
  - i. Provide support to the Compact as the speed-to-market vehicle for asset-based insurance products, encouraging state participation in, and the industry's usage of, the Compact. (*Ongoing Maintenance*)
  - ii. Receive periodic reports from the Compact, as needed. (*Ongoing Maintenance*)

NAIC Support Staff: Tim Mullen/Randy Helder

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

*Adopted by the Market Regulation and Consumer Affairs (D) Committee, Nov. 19, 2024*

*Adopted by the Antifraud (D) Task Force, Oct. 31, 2024*

## 2025 Proposed Charges

### ANTIFRAUD (D) TASK FORCE

The mission of the Antifraud (D) Task Force is to serve the public interest by assisting the state insurance supervisory officials, individually and collectively, through the detection, monitoring, and appropriate referral for the investigation of insurance crime, both by and against consumers. The Task Force will assist the insurance regulatory community by conducting the following activities: 1) maintaining and improving electronic databases regarding fraudulent insurance activities; 2) disseminating the results of research and analysis of insurance fraud trends, as well as case-specific analysis, to the insurance regulatory community; and 3) providing a liaison function between state insurance regulators, law enforcement—i.e., federal, state, local, and international—and other specific antifraud organizations. The Task Force will also serve as a liaison with the NAIC Information Technology Group (ITG) and other NAIC committees, task forces, and/or working groups to develop technological solutions for data collection and information sharing. The Task Force will monitor all aspects of antifraud activities by its working groups on the following charges.

#### Ongoing Support of NAIC Programs, Products or Services

1. The **Antifraud (D) Task Force** will:
  - A. Work with NAIC committees, task forces, and working groups (e.g., Title Insurance (C) Task Force, etc.) to review issues and concerns related to fraud activities and schemes related to insurance fraud.
  - B. Coordinate efforts to address national concerns related to agent fraud and activities of unauthorized agents related to insurance sales.
  - C. Coordinate the enforcement and investigation efforts of state and federal securities regulators with state insurance fraud bureaus.
  - D. Coordinate with state, federal, and international law enforcement agencies in addressing antifraud issues relating to the insurance industry.
  - E. Review and provide comments to the International Association of Insurance Supervisors (IAIS) on its Insurance Core Principles (ICPs) related to insurance fraud.
  - F. Coordinate activities and information from national antifraud organizations, and provide information to state insurance fraud bureaus.
  - G. Coordinate activities and information with state and federal fraud divisions to determine guidelines that will assist with reciprocal involvement concerning antifraud issues resulting from natural disasters and catastrophes.
  - H. Coordinate efforts with the insurance industry to address antifraud issues and concerns.
  - I. Evaluate and recommend methods to track national fraud trends.
  - J. Develop seminars, trainings, and webinars regarding insurance fraud. Provide three webinars by the 2025 Fall National Meeting.
  
2. The **Antifraud Technology (D) Working Group** will:
  - A. Work with the NAIC to develop an Antifraud Plan Repository to be used by insurers to create and store an electronic fraud plan for distribution among the states/jurisdictions. Complete by the 2025 Fall National Meeting.
  - B. Evaluate sources of antifraud data, and propose methods for enhancing the utilization and exchange of information among state insurance regulators, fraud investigative divisions, law enforcement officials,

insurers, and antifraud organizations. Complete by the 2025 Fall National Meeting.

3. The **Improper Marketing of Health Insurance (D) Working Group** will:
  - A. Coordinate with state insurance regulators, both on a state and federal level, to provide assistance and guidance monitoring the improper marketing of health plans, and coordinate appropriate enforcement actions, as needed, with other NAIC committees, task forces, and working groups.
  - B. Review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products, and identify models and guidelines that need to be updated or developed to address current marketplace activities.

NAIC Support Staff: Greg Welker/Lois E. Alexander

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Draft: 10/31/24

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

*Adopted by the Market Regulation and Consumer Affairs (D) Committee, Nov. 19, 2024*

*Adopted by the Producer Licensing (D) Task Force, Oct. 31, 2024*

## **2025 Proposed Charges**

### **PRODUCER LICENSING (D) TASK FORCE**

The mission of the Producer Licensing (D) Task Force is to 1) develop and implement uniform license applications, standards, interpretations, and treatment of producer and adjuster licensees and licensing terminology; 2) monitor and respond to developments related to licensing reciprocity; 3) coordinate with industry and consumer groups regarding priorities for licensing reforms; and 4) provide direction based on NAIC membership initiatives to the National Insurance Producer Registry (NIPR) Board of Directors regarding the development and implementation of uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology.

#### **Ongoing Support of NAIC Programs, Products, or Services**

1. The **Producer Licensing (D) Task Force** will:

- A. Work closely with NIPR to encourage the full utilization of NIPR products and services by all the states and producers, and encourage accurate and timely reporting of state administrative actions to the NAIC's Regulatory Information Retrieval System (RIRS) to ensure that this data is properly reflected in the State Producer Licensing Database (SPLD) and the Producer Database (PDB). (*Ongoing Maintenance*)
- B. Facilitate roundtable discussions, as needed, with the state producer licensing directors for the exchange of views, opinions, and ideas on producer licensing activities in the states and at the NAIC. (*Ongoing Maintenance*)
- C. Discuss, as necessary, state perspectives regarding the regulation and benefit of the activities of the federal Affordable Care Act (ACA), established enrollment assisters (including navigators and non-navigator assisters and certified application counselors), and the activities of producers in assisting individuals and businesses purchasing in the health insurance marketplaces. Coordinate with the Health Insurance and Managed Care (B) Committee and the Antifraud (D) Task Force, as necessary. (*Ongoing Maintenance*)
- D. Monitor the activities of the National Association of Registered Agents and Brokers (NARAB) in the development and enforcement of the NARAB membership rules, including the criteria for successfully passing a background check. (*Ongoing Maintenance*)
- E. Coordinate through NAIC staff to provide guidance to NIPR on producer licensing-related electronic initiatives. Hear a report from NIPR at each national meeting. (*Ongoing Maintenance*)
- F. Coordinate with the Market Information Systems (D) Task Force and the Antifraud (D) Task Force to evaluate and make recommendations regarding the entry, retention, and use of data in the NAIC's Market Information Systems (MIS). (*Ongoing Maintenance*)
- G. Coordinate with the Special (EX) Committee on Race and Insurance on referrals affecting insurance producers. (*Ongoing Maintenance*)
- H. Discuss how criminal convictions may affect producer licensing applicants, review, and amend the NAIC's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994* as needed to create a more simplified and consistent approach in how states review 1033 waiver requests. (*Ongoing Maintenance*)



2. The **Adjuster Licensing (D) Working Group** will:
  - A. Monitor state implementation of adjuster licensing and reciprocity; update the NAIC adjuster licensing standards, as necessary. (*Ongoing Maintenance*)
  
3. The **Producer Licensing Uniformity (D) Working Group** will:
  - A. Work closely with state producer licensing directors and exam vendors to ensure that 1) the states achieve full compliance with the standards in order to achieve greater uniformity and 2) the exams test the qualifications for an entry-level position as a producer. (*Ongoing Maintenance*)
  - B. Provide oversight and ongoing updates to the *State Licensing Handbook*, as needed. (*Ongoing Maintenance*)
  - C. Monitor and assess the state implementation of the Uniform Licensing Standards (ULS) and update the standards, as needed. (*Ongoing Maintenance*)
  - D. Review and update the NAIC's uniform producer licensing applications and uniform appointment form, as needed. Provide any recommended updates to the Producer Licensing (D) Task Force by the NAIC Summer National Meeting. (*Ongoing Maintenance*)
  
4. The **Uniform Education (D) Working Group** will:
  - A. Update the reciprocity guidelines, the uniform application forms for continuing education (CE) providers, and the process for state review and approval of instructors and courses, as needed. Provide any recommended updates to the Producer Licensing (D) Task Force by the Fall National Meeting. (*Ongoing Maintenance*)
  - B. Coordinate with NAIC parent committees, task forces, and/or working groups to review and provide recommendations on prelicensing education and CE requirements that are included in NAIC model acts, regulations, and/or standards, as necessary. (*Ongoing Maintenance*)

NAIC Support Staff: Tim Mullen/Greg Welker

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## Chapter 23—Conducting the Life and Annuity Examination

### STANDARDS OPERATIONS/MANAGEMENT

#### Standard 1

The regulated entity files all certifications with the insurance department, as required by statutes, rules and regulations.

**Apply to:** All regulated entities

**Priority:** Essential

#### Documents to be Reviewed

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Insurance department records of certifications made by the regulated entity

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

#### NAIC Model References

*Advertisements of Life Insurance and Annuities Model Regulation (#570)*  
*Life Insurance Illustrations Model Regulation (#582) and Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49-A)*

#### Review Procedures and Criteria

The illustration actuary should file a certification with the insurance department annually for all policies for which illustrations are used (Model #582, Section 11). For indexed universal life (IUL) illustrations, AG 49-A expands upon and supersedes the illustration requirements in Model #582.

A responsible officer of the insurer, other than the illustration actuary, should certify annually that the illustration formats meet all applicable requirements and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary. In addition, the officer must certify that the regulated entity has provided its producers with information about the expense allocation method used and disclosed by the regulated entity in its illustrations (Model #582, Section 11).

Note: The annual certifications should be provided each year by a date determined by the insurer.

Each insurer should file with its annual statement a certificate of compliance executed by an authorized officer stating that the advertisements which were disseminated by or on behalf of the insurer during the statement year complied, or were made to comply, in all respects with the rules governing the advertising of life insurance (Model #570, Section 9C).

### C. Marketing and Sales

#### 2. Techniques

This area of review should include all advertising and sales material and all producer sales training materials to determine compliance with statutes, rules and regulations. Information from other jurisdictions may be reviewed, if appropriate. The examiner may contact policyholders, producers and others to verify the accuracy of information provided or to obtain additional information.

As with all of its advertising, regardless of the medium, every insurance company is required to have procedures in place to establish and at all times maintain a system of control over the content, form and method of dissemination of all of its advertisements. All of these advertisements maintained by or for and authorized by the insurer are the responsibility of the insurer.

The exact same regulations and statutes (such as the *Unfair Trade Practices Act* (#880)) that apply to conventional advertising also apply to Internet advertising. Bearing that in mind, when the examiner is reviewing a company's Internet advertisements, it is important to also review the safeguards implemented by the company.

All advertisements are required to be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently clear so as to avoid deception. The advertisement shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined upon reviewing the overall impression that the advertisement reasonably may be expected to create upon a person of average education or intelligence within the segment of the public to which the advertisement is directed.

There may be special requirements for applicants age 60 or older. The examiner should refer to statutes, rules and regulations to determine what requirements apply.

In addition to reviewing advertising, examiners should be aware that several NAIC models impose additional duties on regulated entities which go beyond the delivery of accurate information to consumers. If an insurance product is involved and a regulated entity, producer or a registered representative makes a recommendation regarding that insurance product, both insurance suitability laws and insurance replacement laws may apply to the transaction. A person who is advising a consumer about an insurance product, even if it is to replace it with a non-insurance product, must hold an insurance license. An insurance producer who does not hold a license as a registered representative should not give advice or recommendations about securities products.

The *Life Insurance and Annuities Replacement Model Regulation* (#613) was thoroughly updated and expanded in 1998. The new model applies to annuities and life insurance products and requires delivery of certain notices if the proposed purchaser has any existing life insurance or annuity products. Under the new model, insurers are required to have systems in place to monitor compliance with replacement procedures. Under the old model, which is still in place in a number of states, producers generally make a decision at the point of sale as to whether the transaction involves a replacement. Under either model, market regulators should review insurer systems and should also sample transactions that are not reported as replacements to verify that the insurer's system is effective in properly identifying replacement transactions.

Historically, replacement ratios were quite low. This was due in part to the fact that the definition of a replacement under the "old" *Life Insurance and Annuities Replacement Model Regulation* (#613) only applied to life insurance products and external replacements. Under the prior model, either the producer or the insurer made a decision as to whether the transaction involved a "replacement."

The new model covers internal and external replacement and, if any funds for the new product come from an existing product, the transaction is a replacement and must be reported as such. There are several limited exceptions. Another factor in the increase in replacement activity is the tendency of consumers to move funds between investment and insurance products when the stock market fluctuates. In such transactions, an analysis should be performed to determine whether the insurer has systems in place to supervise its producers. Regulators should review transactions involving the sale or replacement of variable products

involving the insurer and its products to verify that a system is in place to confirm that its producers are properly licensed. In the context of the examination, an examiner or analyst is only responsible for reviewing the conduct of insurance producers and conduct which requires an insurance producer license.

The *Suitability in Annuity Transactions Model Regulation* (#275) was adopted in 2020. But it was initially adopted in 2006, and revised in 2010, and was a successor to the *Senior Protection in Annuity Transactions Model Regulation*. The 2006 amendments to the previous model removed all references to seniors among other improvements. Variations of the 2020 model have been adopted in some jurisdictions. Section 989J of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) specifically refers to this model regulation as the “Suitability in Annuity Transactions Model Regulation.” Section 989J of the Dodd-Frank Act confirmed this exemption of certain annuities from the Securities Act of 1933 and confirmed state regulatory authority. This model also specifically identifies annuities which are exempt. This regulation is a successor regulation that exceeds the requirements of the 2010 model regulation. Examiners should reference their own jurisdiction’s versions and adjust review standards accordingly.

The 2020 version of Model #275 requires producers to act in the best interest of consumers when making a sale or recommendation of an annuity and requires insurers to maintain a system of supervision, and the model lays out specific steps that are required to meet that best interest standard. Provisions of the model set forth duties for insurers and producers and indicate insurers are responsible for compliance with the regulation. The model also indicates the commissioner may order corrective action be taken by the insurer, producer, general agency, contracting agency or independent agency. Because of the different types of requirements, review standards are designed separately for examination of insurers and producers.

Licenses are required to maintain, or be able to make available to the commissioner, records of the information required in Model #275 that are collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures and other information used in making the recommendations that were the basis for insurance transactions for state-specific numbers of years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer. Records required to be maintained by this regulation may be maintained in paper, photographic, micro-process, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

Market regulators should also be aware that sales of products, such as fixed-index annuities (formerly referred to as equity-indexed annuities) and index life insurance products (such as universal index life insurance) continue to increase. These products typically include features that require an understanding of bonuses, guaranteed elements and an array of interest-crediting methods. In some cases, existing NAIC model laws and regulations may not give specific guidance on all aspects of all products. In such instances, examiners may rely on general principles found in Model #880, the *Life Insurance Disclosure Model Regulation* (#580) and the *Annuity Disclosure Model Regulation* (#245).

Model #582 sets out a variety of requirements to prevent insurers from using misleading illustrations in the sale of life insurance. AG 49-A expands upon and supersedes some of the illustration requirements of Model #582. It provides guidance and limitations for indexed universal life (IUL) illustrations. In simple terms, Section 4 and Section 5 of AG 49-A set maximum crediting rates for illustrations. Section 6 addresses illustrations of policy loans, and Section 7 requires illustrations beyond those required in Model #582. The implementation of AG 49 was phased as follows:

- Section 4 and Section 5 shall be effective for all new business and in force life insurance illustrations on policies sold on or after Sept. 1, 2015;
- Effective March 1, 2017, Section 4 and Section 5 shall be effective for all in force life insurance illustrations on policies within the scope of this actuarial guideline, regardless of the date the policy was sold; and

- Section 6 and Section 7 shall be effective for all new business and in force life insurance illustrations on policies sold on or after March 1, 2016.

Testing the compliance of illustrations with Model #582 and AG 49-A will be complex, and the examiner will likely seek assistance from an actuary familiar with and capable of testing compliance with Model #582 and AG 49-A. In such cases, the examiner should work with the actuary to determine the appropriate information to request from the insurer necessary to enable the actuary and examiner in testing the compliance of the illustrations.

Evaluation of compliance with annuity suitability may best be accomplished through a process and procedure review coupled with sampling. The process and procedure portion of the review is a good example of a function where states may wish to coordinate their reviews and share responsibilities. A continuum approach, such as use of a desk audit, may also be appropriate. Sampling enables examiners to evaluate whether the established processes have been clearly communicated and implemented rather than to function as a means to "second-guess" each individual suitability determination. Company programs for reviewing suitability may vary widely and should not be considered a "once-size-fits-all" approach. Annuity products can be designed or tailored to serve a wide variety of clientele and customer objectives.

Some insurers may outsource the administration of their suitability review, while maintaining ultimate responsibility for the outcomes. It may be instructive for examiners to become familiar with the structure and practices of commonly used services that perform suitability reviews. Examiners may also want to become familiar with vendor-owned services commonly used by insurers to document their suitability reviews.

The NAIC *Stranger-Originated Annuity Transactions Sample Bulletin* was adopted by the NAIC in October 2011. The bulletin was developed to address stranger-originated annuity transactions (STOA). Similar to stranger-originated life insurance transactions (STOLI), STOA transactions provide annuity contracts for the benefit of investors.

In STOAs, insurance producers and/or investors offer an individual, who is usually a "stranger" to the producer and/or investor, a nominal fee for the use of the individual's identity as the annuitant in an investment-oriented annuity.

Typically, individuals targeted to serve as annuitants are in extremely poor health and are not expected to live beyond the first year of the policy. In order to find individuals who meet the aforementioned criteria, producers and/or investors have been known to take out advertisements in papers as well as solicit individuals residing in nursing homes or hospice facilities.

Once an individual has agreed to the set of conditions posed, the producer will complete the annuity application, ensuring that particular riders, such as a bonus rider or a guaranteed minimum death benefit, are in place to maximize the rate of return for those financing the transaction. Depending on the number of companies the producer represents and the commission policies in effect, the producer may seek to use multiple policies from various companies.

To avoid added scrutiny of the policy or detection of the scheme, producers and/or investors involved in STOAs will often take precautions to ensure that the dollar amount of the annuity falls below specific underwriting guidelines, while other annuities above these dollar amounts are subject to more stringent underwriting. After the annuity is issued, then the investor will significantly increase their investment in the annuity. A trust or an organization may additionally be named as beneficiary of the annuity in order to hide the true identity of those who will benefit from the annuitant's death.

As the financial implications of STOA transactions could be detrimental to both companies and consumers, the adopted bulletin recommends that insurance companies take certain actions to mitigate their exposure

to STOA transactions, which are outlined in the NAIC *Stranger-Originated Annuity Transactions Sample Bulletin*.

It is appropriate for the examiner to remind annuity insurers of this bulletin and to ask if the insurer has considered this bulletin when implementing compliance and/or enterprise risk management procedures.

**STANDARDS  
MARKETING AND SALES**

**Standard 1**

**All advertising and sales materials are in compliance with applicable statutes, rules and regulations.**

**Apply to:** All life and annuity products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ All company advertising and sales materials, including radio and audiovisual items, such as television commercials, telemarketing scripts and pictorial materials

\_\_\_\_\_ Policy forms, including any required buyers' guides as they coincide with advertising and sales materials

\_\_\_\_\_ Producers' own advertising and sales materials

\_\_\_\_\_ All documents related to the development of crediting rates used in illustrations

**Others Reviewed**

\_\_\_\_\_

\_\_\_\_\_

**NAIC Model References**

*Advertisements of Life Insurance and Annuities Model Regulation* (#570), Section 3B

*Risk-Based Capital (RBC) for Insurers Model Act* (#312), Section 8B

*Modified Guaranteed Annuity Model Regulation* (#255), Section 4B

*Life Insurance Disclosure Model Regulation* (#580), Section 8C

*Unfair Trade Practices Act* (#880)

*Annuity Disclosure Model Regulation* (#245), Section 6 plus appendix

*Long-Term Care Insurance Model Act* (#640)

*Life Insurance Illustrations Model Regulation* (#582) and *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index Based Interest* (AG 49-A)

*Suitability in Annuity Transactions Model Regulation* (#275)

*Military Sales Practices Model Regulation* (#568)

**Review Procedures and Criteria**

Evaluate the company's system for controlling advertisements. Every insurer should have and maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All advertisements—regardless of by whom written, created, designed or presented—are the responsibility of the insurer.

Ensure the company maintains, at its home or principal office, a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies. There should be a notation indicating the manner and extent of distribution and the form number of every policy advertised. All advertisements should be maintained in the file for a period of either 4 years or until the filing of the next regular report on examination of the company, whichever is the longer period of time.

Review advertising materials in conjunction with the appropriate policy form.

Materials should not:

- Misrepresent policy benefits, advantages or conditions by failing to disclose limitations, exclusions or reductions, or use terms or expressions that are misleading or ambiguous;
- Make unfair or incomplete comparisons with other policies;
- Make false, deceptive or misleading statements or representations with respect to any person, company or organization in the conduct of insurance business;
- Offer unlawful rebates;
- Use terminology that would lead a prospective buyer to believe that he/she is purchasing an investment or savings plan. Problematic terminology may include such terms as: investment, investment plan, founder's plan, charter plan, deposit, expansion plan, profit, profits, profit sharing, interest plan, savings or savings plan;
- Omit material information or use words, phrases, statements, references or illustrations, if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences;
- Use terms such as "non-medical" or "no medical examination required" if the issue is not guaranteed, unless the terms are accompanied by a further disclosure of equal prominence and juxtaposition that issuance of the policy may depend on the answers to the health questions set forth in the application;
- State that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company;
- State or imply that the policy or combination of policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. Enrollment periods may not be described as terms such as "special" or "limited" when the insurer uses successive enrollment periods as its usual method of marketing its policies;
- State or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised, because of special advantages available in the policy;
- Offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium should be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised;
- Imply licensing beyond limits, if an advertisement is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed;
- Exaggerate the fact, suggest or imply that competing insurers or insurance producers may not be licensed, if the advertisement states that an insurer or insurance producer is licensed in the state where the advertisement appears;
- Create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated, if the entity authorizes its recommendation or endorsement to be used in an advertisement;

- State or imply that prospective insureds are or become members of a special class, group or quasi-group and enjoy special rates, dividends or underwriting privileges, unless that is a fact;
- Contain an assertion, representation or statement with regard to the risk-based capital levels of any insurer or of any component derived in the calculation;
- Use the existence of the insurance guaranty association for the purpose of sales, solicitation or inducement to purchase any form of insurance covered by the association;
- Misrepresent the dividends or share of the surplus to be received on any policy;
- Make a false or misleading statement as to the dividends or share of surplus previously paid on a policy;
- Misrepresent any policy as being shares of stock; and Illustrations of benefits payable under any modified guaranteed life insurance shall not include projections of past investment experience. Hypothetical assumed interest credits may only be used if it is made clear that such are hypothetical only.

Materials should:

- Clearly disclose name and address of insurer;
- If using a trade name, disclose the name of the insurer, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy;
- Prominently describe the type of policy being advertised;
- Indicate that the product being marketed is insurance;
- Comply with applicable statutes, rules and regulations;
- Cite the source of statistics used;
- Identify the policy form that is being advertised, where appropriate;
- Clearly define the scope and extent of a recommendation by any commercial rating system;
- Only include testimonials, appraisals or analysis if they are genuine, represent the current opinion of the author, are applicable to a policy advertised and accurately reproduced to avoid misleading or deceiving prospective insureds. Any financial interest by the person making the testimonial in the insurer or related entity must be prominently disclosed;
- Only state or imply endorsement by a group of individuals, society, association, etc., if it is a fact, and any proprietary relationship or payment for the testimonial must be disclosed; and
- The sales material for any modified guaranteed life insurance must clearly illustrate there can be both upward and downward adjustments to nonforfeiture benefits, due to the application of the market value adjustment formula.

Determine if the company approves producer sales materials and advertising. Determine if advertisements or lead-generating calls falsely project the image that they were sent by a government agency.

Determine if the advertising and solicitation materials mislead consumers relative to the producer's capacity as a life insurance agent. Improper terms may include financial planner, investment advisor, financial consultant or financial counseling, if they imply the producer is primarily engaged in an advisory business in which compensation is unrelated to sales, if such is not the case.

Determine if the company has procedures in place to monitor the use of senior-specific certifications or professional designations used by producers that solicit for the company.

Determine if the company allows its life and annuity products to be marketed to the military. If so, review the company procedures to ensure that the procedures are in compliance with all applicable laws and regulations regarding sales to military personnel.

Determine if analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments are complete and accurate.



Determine if the advertisement states or implies in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable or in any manner an incorrect or an improper practice.

If nonforfeiture values are shown in any advertisement, ensure the values are shown, either for the entire amount of the basic life policy death benefit, or for each \$1,000 of initial death benefit.

Review the use of the words/phrases “free,” “no cost,” “without cost,” “no additional cost,” “at no extra cost” or words/phrases of similar import. Such words/phrases should not be used with respect to any benefit or service being made available with a policy, unless true. If there is no charge to the insured, then the identity of the payor must be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

Ensure the advertisement does not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

If an advertisement represents a pure endowment benefit as a “profit” or “return” on the premium paid, rather than as a policy benefit for which a specified premium is paid, it is deemed deceptive and misleading and is prohibited.

Determine that company procedures and materials relative to long-term care (LTC) products comply with “right to free look” requirements.

Review the company and producer’s websites with the following questions in mind:

- Does the website disclose who is selling/advertising/servicing for the website?
- Does the website disclose what is being sold or advertised?
- If required by statutes, rules or regulations, does the website reveal the physical location of the company/entity?
- Does the website reveal the jurisdictions where the advertised product is (or is not) approved, or use some other mechanism (including, but not limited to, identifying persons by geographic location) to accomplish an appropriate result?

For the review of Internet advertisements:

- Run an inquiry with the company’s name;
- Review the company’s home page;
- Identify all lines of business referenced on the company’s home page;
- Research the ability to request more information about a particular product and verify the information provided is accurate; and
- Review the company’s procedures related to producers’ advertising on the Internet and ensure the company requires prior approval of the producer pages, if the company name is used.

A summary of special requirements is available for the following:

- Products sold using enrollment periods;
- Direct response products;
- Graded or modified benefit policies;
- Policies with premium changes;
- Policies with non-guaranteed elements;
- Products sold to students;
- Individual deferred annuity products or deposit funds; and
- Combination life insurance and annuity products.

Review advertising carefully for use of the term “guarantee.” Verify that the scope and duration of any guarantee is accurately described. Determine that the regulated entity has accurately portrayed non-guaranteed elements. Verify that complete information is provided regarding the scope and duration of guarantees.

Review advertising carefully for use of the term “bonus.” Review the functioning of any such bonus payments and verify that the information provided is accurate in describing the amount and the conditions for payment, retention or recoupment of the bonus.

Review advertising carefully for explanations of surrender periods and charges. Review the functioning of any such surrender charge and, in particular, how the charge is calculated in death claims. Verify that the information provided regarding the amount of the charge and the conditions for assessment are accurate.

Index products

For advertising for interest-sensitive products, review explanations of the crediting methods and terms. Review the functioning of the crediting methods to determine that the explanations are understandable and accurate. Verify that accurate information is provided regarding the options available to the consumer and the methods by which the consumer is to exercise the options.

In addition to reviewing the advertising of indexed products, the examiner should review the illustration for compliance with Model #582 to ensure that, among other things, unreasonable or deceptive crediting rates are not being used in the illustrations and that the illustrations provide the consumer with the information required by Model #582 and, for indexed universal life (IUL) products, AG 49-A. Determine whether the explanations and information provided regarding the options available to the consumer are consistent with the requirements and limitations of Model #582 in AG 49-A.

Review the methods used by the regulated entity, annually or otherwise, to convey ongoing information about policy/contract values and options available to the consumer to change interest-crediting methods or exercise other policy/contract features in future terms.

**STANDARDS  
MARKETING AND SALES**

**Standard 4**

**An illustration used in the sale of a policy contains all required information and is delivered in accordance with statutes, rules and regulations.**

**Apply to:** All life products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Actuarial records

\_\_\_\_\_ All documents related to the development of crediting rates used in illustrations

\_\_\_\_\_ Underwriting file

**Others Reviewed**

\_\_\_\_\_  
\_\_\_\_\_

## NAIC Model References

*Life Insurance Illustrations Model Regulation (#582) and Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index Based Interest (AG 49-A)*  
*Universal Life Insurance Model Regulation (#585)*  
*Variable Life Insurance Model Regulation (#270)*  
*Life Insurance Disclosure Model Regulation (#580)*

## Review Procedures and Criteria

Note: Some policies may be deemed to be sold without an illustration.

If a jurisdiction continues to require surrender cost indices, ensure it is appropriately disclosed in the Statement of Policy Cost and Benefit.

Ensure that the insurer, its producers or authorized representatives do not:

- Represent the policy as anything other than a life insurance policy;
- Use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- State or imply that the payment or amount of non-guaranteed elements is guaranteed;
- Use an illustration that does not comply with statutes;
- Use an illustration that at any policy duration depicts policy performance more favorable to the policyowner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- Provide an applicant with an incomplete illustration;
- Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- Use the terms “vanish,” “vanishing premium” or similar terms that imply that the policy becomes paid-up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
- Except for policies that can never develop nonforfeiture values, use an illustration that is “lapse-supported”; or
- Use an illustration that is not “self-supporting.”

Ensure that the insurer has a documented, reasonable methodology for the manner in which it determines its index-crediting strategy. Verify that the insurer has a system which monitors the interest rates used by its insurance producers in illustrations for compliance with the insurer’s credited interest rates.

Model #582 sets out a variety of requirements to prevent insurers from using unreasonable or misleading illustrations in the sale of life insurance. AG 49-A expands upon and supersedes some of the illustration requirements of Model #582 for indexed universal life (IUL) illustrations. In simple terms, Section 4 and Section 5 of AG 49-A set maximum crediting rates for illustrations. Section 6 addresses illustrations of policy loans, and Section 7 requires illustrations beyond those required in Model #582. The implementation of AG 49 was phased as follows:

- Section 4 and Section 5 shall be effective for all new business and in force life insurance illustrations on policies sold on or after Sept. 1, 2015;
- Effective March 1, 2017, Section 4 and Section 5 shall be effective for all in force life insurance illustrations on policies within the scope of this actuarial guideline, regardless of the date the policy was sold; and
- Section 6 and Section 7 shall be effective for all new business and in force life insurance illustrations on policies sold on or after March 1, 2016.

Testing the compliance of illustrations with Model #582 and AG 49-A will be complex, and the examiner will likely seek assistance from an actuary familiar with and capable of testing compliance with Model #582 and AG 49-A. In such cases, the examiner should work with the actuary to determine the appropriate information to request from the insurer necessary to enable the actuary and examiner in testing the compliance of the illustrations.

The following are more complex requirements of AG 49-A, which may require the assistance of an actuary or other person with expertise in evaluating illustration crediting methodologies and calculations:

- For new business and in force life insurance illustrations on policies sold on or after Sept. 1, 2015, determine whether the credited rate for the Illustrated Scale has been limited according to the requirements of Section 4;
- For new business and in force life insurance illustrations on policies sold on or after Sept. 1, 2015, determine whether the earned interest rate for the Disciplined Current Scale has been limited according to the requirements of Section 5;
- For new business and in force life insurance illustrations on policies sold on or after March 1, 2016, ensure that if the illustration includes a loan, the illustrated rate credited as compared to the illustrated loan charge has been limited according to the requirements of Section 6;
- For new business and in force life insurance illustrations on policies sold on or after March 1, 2016, ensure that the basic illustration includes a ledger using the Alternate Scale shown alongside a ledger using the illustrated scale with equal prominence according to the requirements of Section 7.A;
- For new business and in force life insurance illustrations on policies sold on or after March 1, 2016, ensure that the basic illustration includes a table showing the minimum and maximum of the geometric average annual credited rates as referenced in Section 7.B; and
- For new business and in force life insurance illustrations on policies sold on or after March 1, 2016, ensure that the basic illustration includes a table showing actual historical index changes and corresponding hypothetical interest rates using current index parameters for the most recent 20-year period for each Index Account illustrated, as required by Section 7.C.

Ensure that the insurer has established requirements for producers to provide universal life applicants with a “Statement of Policy Information.” The statement should substantially follow the format set forth in the *Universal Life Insurance Model Regulation* (#585). Insurers that use direct response solicitation of universal life insurance products should provide such a statement at the time of policy delivery.

Ensure illustrations are retained in accordance with statutes, rules and regulations. A copy of the basic illustration and a revised basic illustration (if any) signed, as applicable, or a certification that either no illustration was used or that the policy was applied for other than as illustrated, should be retained until 3 years after the policy is no longer in force.

Determine if the illustration is submitted to the regulated entity as required.

- If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of the illustration must be submitted to the insurer at the time of policy application. A copy must also be provided to the applicant.
- If the policy is issued other than as applied for:
  - A revised basic illustration conforming to the policy as issued should be sent with the policy;
  - The revised illustration should be labeled “Revised Illustration”;
  - The illustration should be signed and dated by the applicant or policyowner and producer or other authorized representative of the insurer no later than the time the policy is delivered; and
  - A copy must be provided to the insurer and the policyowner.
- If no illustration is used by an insurance producer or other authorized representative, or if the policy is applied for other than as illustrated:
  - The producer or representative must certify to that effect in writing on a form provided by the insurer;
  - The applicant should acknowledge (on the same form) that no illustration conforming to the policy applied for was provided and also acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than the time of policy delivery; and
  - The form must be submitted to the insurer at the time of application.
- If the basic or revised illustration is sent by mail from the insurer:

- It should include instructions for the applicant/policyowner to sign the duplicate copy of the numeric summary page and return the signed copy; and
- An insurer's obligation will be satisfied if it demonstrates a diligent effort to obtain the signature. Diligent effort includes the mailing of a self-addressed postage-prepaid envelope with instructions for the return of the signed page.

Ensure a signed copy of the basic illustration and revised basic illustration, if any, or a certification that either no illustration was used or that the policy was applied for other than as illustrated is retained until 3 years after the policy is no longer in force. (A copy does not have to be retained if the policy is not issued.)

A summary of illustration requirements is available with special requirements for:

- Basic illustrations;
- Supplemental illustrations;
- Interest-indexed universal life;
- Universal life; and
- Variable life.

## STANDARDS MARKETING AND SALES

### **Standard 14**

**The insurer has procedures in place to provide full disclosure to consumers regarding all sales of products involving index life, and all sales are in compliance with applicable statutes, rules and regulations.**

**Apply to:** All index life products

**Priority:** Essential

#### **Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Policy/Underwriting file

\_\_\_\_\_ Agency correspondence file/Agency bulletins

\_\_\_\_\_ Agency procedural manual

\_\_\_\_\_ All documentation demonstrating the development of crediting rates used in illustrations

\_\_\_\_\_ Claim files

\_\_\_\_\_ Complaint log

\_\_\_\_\_ Agency sales/lapse records

\_\_\_\_\_ Regulated entity's systems manual

\_\_\_\_\_ Regulated entity's producer training materials

\_\_\_\_\_ Contracts with third-party vendors with compliance responsibilities

Others Reviewed

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## NAIC Model References

*Advertisements of Life Insurance and Annuities Model Regulation* (#570), Section 3B

*Life Insurance Disclosure Model Regulation* (#580), Section 8C

*Unfair Trade Practices Act* (#880)

*Life Insurance Illustrations Model Regulation* (#582) and *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index Based Interest* (AG 49-A)

## Review Procedures and Criteria

Review policy files to determine that the regulated entity is retaining required records for required time frames.

Examine the regulated entity's procedures for verifying producer compliance with the regulated entity's policy and procedures

Review complaint log for complaints alleging improper or misleading sales practices.

Review documentation to ensure compliance of the insurer's illustration methodologies with Model #582, generally, and with AG 49-A, specifically for indexed universal life (IUL) products. Review documentation to confirm implementation of AG 49-A at required effective dates.

Review claim files for proper interest crediting and computation of death claims.

Review commission structure and note any differences between indexed and non-indexed life insurance products. If it appears that differences noted may be significant enough to provide incentive to a producer to recommend one product over another regardless of suitability, perform further analysis to test that hypothesis.

## I. Supplemental Checklist for Marketing and Sales Standard #4

Determine whether, in addition to all other illustration requirements, indexed universal life (IUL) illustrations contain or comply with the following requirements specified in *Actuarial Guideline XLIX-A— The Application of the Life Illustrations Model Regulation to Policies with Index Based Interest* (AG 49-A). (Section 4 and Section 5 apply to new business and in force illustrations for policies sold on or after Sept. 1, 2015, and Section 6 and Section 7 apply to new business and in force illustrations for policies sold on or after March 1, 2016.)

Yes	No	N/A	Requirement
			The illustration actuary uses the current annual cap for the Benchmark Index Account offered with the illustrated policy (AG 49-A, Section 4.A.i.).
			The illustration actuary uses a hypothetical, supportable current annual cap for a hypothetical, supportable Index Account that meets the definition of a Benchmark Index Account (AG 49-A, Section 4.A.ii.). Note: Actuarial judgment may be used by the illustration actuary. Support for the determination of the hypothetical cap may be requested of the illustration actuary by the examiner. The examiner may refer this support to an actuarial or investment specialist for review as necessary.
			The maximum credited rate used for the Illustrated Scale is the arithmetic mean of the geometric average annual credited rates calculated in 4.A. (per AG 49-A, Section 4.B.). Note: Review may be referred by the examiner to an actuarial or investment specialist as necessary.
			Where other Index Accounts are used in illustrations, the illustration actuary determined the Illustrated Scale (according to AG 49-A, Section 4.C.). Note: Review may be referred by the examiner to an actuarial or investment specialist as necessary.
			The insurer updated the credited rate for each Index Account (in accordance with AG 49-A Section 4.B. and Section 4.C.) within three months of the beginning of the calendar year of the illustration (AG 49-A, Section 4.D.).
			The illustrated rate credited to the loan balance shall not exceed the illustrated loan charge by more than 100 basis points (AG 49-A, Section 6).
			The basic illustration includes a ledger using the Alternate Scale shown alongside the ledger using the Illustrated Scale with equal prominence (AG 49-A, Section 7.A.).
			The basic illustration includes a table showing the minimum and maximum of the geometric average annual credited rates calculated in AG 49-A, Section 4.A. (AG 49-A, Section 7.B.).
			The basic illustration includes a table showing actual historical index changes and corresponding hypothetical interest rates using current index parameters for the most recent 20-year period for each Index Account illustrated (AG 49-A, Section 7.C.).

*(Actuarial Guideline XLIX-A— The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest)*

<b>INDIVIDUAL INITIAL APPLICATION - LIST OF REVISIONS</b>	
Adopted by the Executive (EX) Committee and Plenary, XX, 20XX	
Adopted by the Market Regulation and Consumer Affairs (D) Committee, XX, 20XX	
Adopted by the Proeducer Licensng (D) Task Force, XX, 20XX	
Adopted by the Proeducer Licensng Uniformity (D) Working Group, May 7, 2024	
#	REVISION
1	Top of Page - Removal of <u>Producer</u> from title. - Individual <del>Producer</del> License/Registration
2	Top of Page - Removal of <del>Home State Licensing #: _____</del>
3	Field #13 - Home Phone Number - Changed to <del>Home</del> <u>Personal</u> Phone Number
4	Field #14 - Individual Applicant Email Address - Changed to <del>Indiviual Applicant</del> <u>Personal</u> Email Address
8	Field #36 - Employment History - Removal of Language. Account for all time for the past five years. <del>Give all employment expireince starting with your current employer working back five years</del> Include full and part-time work, self-employment, military service, unemployment and <del>full-time</del> education.
10	Field #38 - Background Questions - Language cut from 1c and added to beginning of section. The Applicant must read the following very carefully and answer every question. All written statements submitted by the Applicant must include an original signature.  <u>NOTE: For Questions 1a, 1b and 1c, "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest.</u>  - <u>If you answered "Yes" to any of the below questions (1a, 1b, or 1c), you must attach to this application:</u> <u>a) a written statement explaining the circumstances of each incident,</u> <u>b) a copy of the charging documents of each incident,</u> <u>c) a copy of the official documents of each incident, which demonstrates the resolution of the charges or any final judgment.</u>
11	Field #38 Background Questions - Changed ever to EVER <span style="float: right;">1a . Have</span> you <del>ever</del> <b>EVER</b> been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?
12	Field #38 Background Questions - Changed ever to EVER <span style="float: right;">1b. Have</span> you <del>ever</del> <b>EVER</b> been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?



13	<p>Field #38 Background Questions - Add language to felony conviction section</p> <p>1b. Have you <del>ever</del> <b>EVER</b> been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? <span style="float: right;">If you have</span></p> <p>a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033? <span style="float: right;"><a href="#">(Note: For detailed information related to the requirements of 18 USC 1033 as it pertains to insurance licensing please refer to the NAIC publication “Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994” found at https://www.naic.org/documents/prod_serv_legal_sir_op.pdf)</a></span></p>
14	<p>Field #38 Background Questions - Removal of NOTE Language and moved to top of section</p> <p>1c. Have you ever been convicted of a military offense, had a judgment withheld or deferred, or are you currently charged with committing a military offense? <span style="float: right;"><del>NOTE: For Questions 1a, 1b and 1c, “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest.</del></span></p> <p><del>If you answered “Yes” to any of the below questions (1a, 1b, or 1c), you must attach to this application:</del></p> <ul style="list-style-type: none"><li><del>a) a written statement explaining the circumstances of each incident,</del></li><li><del>b) a copy of the charging documents of each incident,</del></li><li><del>c) a copy of the official documents of each incident, which demonstrates the resolution of the charges or any final judgment.</del></li></ul>
15	<p>Field #38 Background Questions - Changed ever to EVER</p> <p>2. Have you <del>ever</del> <b>EVER</b> been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?</p>

16	<p>Field #38 Background Questions - Language add to "Involved" description section</p> <p>2. Have you <del>ever</del> <b>EVER</b> been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?</p> <p>“Involved” means having a license <u>or registration</u> censured, suspended, revoked, canceled, terminated, <u>restricted</u>; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license <u>or entering into a settlement</u> to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. “Involved” also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company <u>or any other position that exercises management or control over the business</u>. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal or <u>late filing</u> fee.</p>
17	<p>Field #38 Background Questions - Language added/removed to #3</p> <p>3. Has any demand been made or judgment rendered against you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, for overdue monies <del>by an insured, or producer</del> have you <del>ever</del> <b>EVER</b> been subject to a bankruptcy proceeding? Do not include personal bankruptcies, unless they involve funds held on behalf of others, <u>which would include, but is not limited to, deposits, insured’s premium payments, employee tax withholdings, escrow accounts, or any monies held by you in a capacity for third parties.</u></p>
18	<p>Field #38 Background Questions - Language added to #6</p> <p>6. Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, ever had an insurance agency <u>or securities broker</u> contract or any other business relationship with an insurance company <u>or securities business</u> terminated for any alleged misconduct?</p>

19	<p>Field #38 Background Questions - Language added/removed to #7</p> <p>7. Do you have a child support obligation in arrearage?</p> <p>If you answer yes,</p> <p>a) by how many months are you in arrearage?</p> <p>b) are <a href="#">you subject of a child support related subpoena/warrant</a> <del>you currently subject to and in compliance with any repayment agreement?</del></p> <p>c) are <a href="#">you currently subject to a repayment agreement?</a> <del>you the subject of a child support related subpoena/warrant?</del></p> <p>d) <a href="#">are you currently in compliance with the repayment agreement?</a></p> <p>(If you answered yes to 7 (c), provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.)</p>
20	<p>Field #38 Background Questions - Language added/removed to #8</p> <p>8. In response to a “<del>y</del>Yes” answer to one or more of the Background Questions for this application, are you submitting, <a href="#">or have you previously submitted</a> document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p><a href="#">NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</a></p> <ul style="list-style-type: none"><li><a href="#">•You have previously loaded a document(s);</a></li><li><a href="#">•You have recently submitted an application that is pending;</a></li><li><a href="#">•You are submitting the same type of application (resident/nonresident, initial/renewal); and</a></li><li><a href="#">•You are answering “Yes” to the same background question(s).</a></li></ul> <p><a href="#">If you have not previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</a></p> <p><del>If you answer yes</del></p> <p><del>Will you be associating (linking) previously filed documents from the NAIC/NIPR Attachments Warehouse to this application?—</del></p> <p><del>Note: If you have previously submitted documents to the Attachments Warehouse that are intended to be filed with this application, you must go to the Attachments Warehouse and associate (link) the supporting document(s) to this application based upon the particular background question number you have answered yes to on this application. You will receive information in a follow-up page at the end of the application process, providing a link to the Attachment Warehouse instructions.</del></p>

22	Field #39 Applicant's Certification and Attestation - Language added/removed from #5 the jurisdictions to which this application is made to give any information concerning me, as permitted by law <a href="#">and in the furtherance of the Commissioner's, Director's, or Superintendent's official duties</a> , to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on <del>their behalf in the furtherance of official duties</del> <del>thier behalf</del> from any and all liability of whatever nature by reason of furnishing such information.	5. I authorize
23	Field #39 Applicant's Certification and Attestation - New question and language added #7 Resident License Applications, I certify that I am licensed and in good standing in my home state/resident state for the lines of authority requested from the non-resident state. <a href="#">The state will rely on an electronic verification of an Applicant's resident license through the NAIC's State Producer Licensing Database in lieu of requiring an original Letter of Certification from the resident state.</a>	7. For Non-
24	Field #39 Applicant's Certification and Attestation - New question and language added #9 <a href="#">acknowledge that jurisdiction specific attachments may be required with this application. State Specific Requirements and Fees information are available at www.NIPR.com. Incomplete applications may be returned as unprocessed and considered deficient.</a>	9. I
25	Field #40 Attachments - Section Removed <del>following attachments must accompany the application otherwise the application may be returned unprocessed or considered deficient.</del>  <del>1. For Non-Resident License Applications and unless otherwise noted in the State Matrix of Business Rules, a state will rely on an electronic verification of an Applicant's resident license through the NAIC's State Producer Licensing Database in lieu of requiring an original Letter of Certification from the resident state.</del>	The      2. Any

~~jurisdiction specific attachments listed in the State Matrix of Business Rules (www.nipr.com):~~

<b>INDIVIDUAL RENEWAL APPLICATION - 2018 LIST OF REVISIONS</b>	
Adopted by the Executive (EX) Committee and Plenary, XX, 20XX	
Adopted by Market Regulation and Consumer Affairs (D) Committee, XX, 20XX	
Adopted by the Producer Licensing (D) Task Force, XX, 20XX	
Adopted by Producer Licensing Uniformity (D) Working Group, June 4, 2024	
#	REVISION
1	Top of Page - Removal of <del>Producer</del> from title. - Individual <del>Producer</del> License Renewal/Continuation
2	Top of Page - Removal of <del>Identify Home State Licensing #: _____</del>
3	Field #3 - Add new field <span style="float: right;"><a href="#">If applicable, FINRA</a></span> <a href="#">Individual Central Registration Depository (CRD) Number: _____</a>
4	Field #7 - Add new field <span style="float: right;"><a href="#">Are you a Citizen of the</a></span> <a href="#">United States? (Check One) 0 Yes 0 No _____</a> (if No, of which country are you a citizen? <a href="#">_____</a> ) <a href="#">(If No, and this is an application for a Resident Renewal, you must supply proof of eligibility to work in the U.S.)</a>
5	Field #14 - Individual Applicant Email Address - Changed to <del>Individual Applicant</del> <a href="#">Personal</a> Email Address
6	Field #13 - Add new field - <a href="#">Personal Phone Number</a>
7	Field #14 - Business Entity's Name - Added Employer's <span style="float: right;"><a href="#">Employer's</a> Business Entity's Name</span>
9	Field #26 - Background Questions -Language moved from 1c. to the top of Background Question section <span style="float: right;"><a href="#">NOTE: For Questions 1a, 1b and</a></span> <a href="#">1c, "Convicted" includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo</a> <a href="#">contendere or no contest.</a>  <a href="#">If you answer yes to any of these questions, you must attach to this application:</a> <a href="#">a) a written statement explaining the circumstances of each incident,</a> <a href="#">b) a copy of the charging document of each incident,</a> <a href="#">c) a copy of the official document of each incident, which demonstrates the resolution of the charges or any final judgment.</a>
10	Field #26 - Background Questions - 1a - Add EVER <span style="float: right;">1a. Have you <b>EVER</b> been</span> convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor, which has not been previously reported to this insurance department?

11	Field #26 - Background Questions - 1b - Add EVER convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department?	1b. Have you <b>EVER</b> been
12	Field #2 - Backgroiund Questions - 1b. Add Note langauge convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony, which has not been previously reported to this insurance department?  You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court)  If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033? <a href="https://www.naic.org/documents/prod_serv_legal_sir_op.pdf"> (Note: For detailed information related to the requirements of 18 USC 1033 as it pertains to insurance licensing please refer to the NAIC publication “Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994” found at https://www.naic.org/documents/prod_serv_legal_sir_op.pdf)</a>	1b. Have you <b>EVER</b> been
13	Field #26 - Background Questions - 1c - Add EVER convicted of a military offense, had a judgment withheld or deferred, or are you currently charged with committing a military offense, which has not been previously reported to this insurance department?	1c. Have you <b>EVER</b> been
14	Field #26 - Background Questions - 2 - Add/Remove Langauge or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?  “Involved” means having a license or registration censured, suspended, revoked, canceled, terminated, <a href="#">restricted</a> or, being assessed a fine, placed on probation, sanctioned or surrendering a license or entering into a settlement to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. “Involved” also means having a license, or registration, application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company <a href="#">or any other position that exercises management or control over the business.</a> You may <del>exclude</del> <b>EXCLUDE</b> terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal <a href="#">or late filing fee.</a>	2. Have you EVER been named

15	<p>Field #26 - Background Questions - 3 - Add/Remove Language</p> <p>3. Do you have a child support obligation in arrearage, which has not been previously reported to this insurance department?</p> <p>If you answer yes,</p> <p>a) by how many months are you in arrearage?</p> <p>b) <a href="#">are you the subject of a child support related subpoena/warrant?</a></p> <p>c) are you currently subject to <del>and in compliance with any a</del> repayment agreement?</p> <p>d) <del>are you the subject of a child support related subpoena/warrant</del> <a href="#">are you currently in compliance with the repayment agreement?</a>  <a href="#">(If you answered “Yes” to 3(c), provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support.)</a></p>	3. Do you
16	<p>Field #26 - Background Questions - 4 - Add/Remove Language</p> <p>4. In response to a “yYes” answer to one or more of the Background Questions for this renewal application, are you submitting, <a href="#">or have you previously submitted</a> document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p><a href="#">NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</a></p> <ul style="list-style-type: none"> <li>• <a href="#">You have previously loaded a document(s);</a></li> <li>• <a href="#">You have recently submitted an application that is pending;</a></li> <li>• <a href="#">You are submitting the same type of application (resident/nonresident, initial/renewal); and</a></li> <li>• <a href="#">You are answering “Yes” to the same background question(s).</a></li> </ul> <p><a href="#">If you have not previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</a></p> <hr/> <p><del>If you answer yes;</del></p> <p><del>Will you be associating (linking) previously filed documents from the NAIC/NIPR Attachments Warehouse to this application? –</del></p> <p><del>Note: If you have previously submitted documents to the Attachments Warehouse that are intended to be filed with this renewal application, you must go to the Attachments Warehouse and associate (link) the supporting document(s) to this application based upon the particular background question number you have answered yes to on this application. You will receive information in a follow-up page at the end of the application process, providing a link to the Attachment Warehouse instructions.</del></p>	
18	<p>Field #27 - Applicant's Certification and Attestation - Add New Language</p> <p><a href="#">8. For Non-Resident License Applications, I certify that I am licensed and in good standing in my home state/resident state for the lines of authority requested from the non-resident state. The state will rely on an electronic verification of an Applicant’s resident license through the NAIC’s State Producer Licensing Database in lieu of requiring an original Letter of Certification from the resident state.</a></p>	8. For Non-

19 | Field #27 - Applicant's Certification and Attestation - Add New Language [9.1](#)  
[acknowledge that jurisdiction specific attachments may be required with this application. State Specific Requirements and Fees information are available at \[www.NIPR.com\]\(http://www.NIPR.com\). Incomplete applications may be returned as unprocessed and considered deficient.](#)

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<b>BUSINESS ENTITY APPLICATION - LIST OF REVISIONS</b>	
Adopted by the Executive (EX) Committee and Plenary, XX, 20XX	
Adopted by the Market Regulation and Consumer Affairs (D) Committee, XX, 20XX	
Adopted by Producer Licensing (D) Task Force, XX, 20XX	
Adopted by the Producer Licensing Uniformity (D) Working Group, June 4, 2024	
#	REVISION
2	Top of Page - Removal of <del>Identify Home State Licensing #: _____</del>
10	<p>Field #29 - Background Questions - Language cut from 1c and added to beginning of section.</p> <p>The Applicant must read the following very carefully and answer every question. All written statements submitted by the Applicant must include an original signature.</p> <p><u><a href="#">NOTE: For Questions 1a, 1b and 1c, “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest.</a></u></p> <p>–</p> <p><u><a href="#">If you answered “Yes” to any of the below questions (1a, 1b, or 1c), you must attach to this application:</a></u></p> <p><u><a href="#">a) a written statement explaining the circumstances of each incident,</a></u></p> <p><u><a href="#">b) a copy of the charging documents of each incident,</a></u></p> <p><u><a href="#">c) a copy of the official documents of each incident, which demonstrates the resolution of the charges or any final judgment.</a></u></p>
11	<p>Field #29 Background Questions - Changed ever to EVER</p> <p>1a. Has the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> been convicted of a misdemeanor, had a judgment withheld or deferred or is the business entity or any owner, partner, officer or director of the business entity, or member or manager currently charged with, committing a misdemeanor?</p>
12	<p>Field #29 Background Questions - Changed ever to EVER</p> <p style="text-align: right;">1b. Has the business</p> <p>entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company <del>ever</del> <b>EVER</b> ever been convicted of a felony, had judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company currently charged with committing a felony?</p>

14	<p>Field #29 Background Questions - Add NOTE Language and moved to top of section</p> <p>1b. Has the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company <del>ever</del> <b>EVER</b> ever been convicted of a felony, had judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company currently charged with committing a felony?                  You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court.)</p> <p>If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033? (Note: For detailed information related to the requirements of 18 USC 1033 as it pertains to insurance licensing please refer to the NAIC publication “<b>Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994</b>” found at <a href="https://www.naic.org/documents/prod_serv_legal_sir_op.pdf">https://www.naic.org/documents/prod_serv_legal_sir_op.pdf</a>)</p>
15	<p>Field #29 Background Questions - Changed ever to EVER</p> <p>1c. Has the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> ever been convicted of a military offense, had a judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, currently charged with committing a military offense?</p>
16	<p>Field #29 Background Questions - Removal of NOTE Language</p> <p>1c. Has the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> ever been convicted of a military offense, had a judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, currently charged with committing a military offense? .</p> <p><del>NOTE: For Questions 1a, 1b, and 1c “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence or a fine.</del></p> <p><del>If you answer yes to any of these questions, you must attach to this application:</del></p> <ul style="list-style-type: none"> <li><del>a) a written statement identifying all parties involved (including their percentage of ownership, if any) and explaining the—</del></li> <li><del>circumstances of each incident;</del></li> <li><del>b) a copy of the charging document;</del></li> <li><del>c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.</del></li> </ul>
17	<p>Field #29 Background Questions - Change ever to EVER</p> <p>2. Has the business entity or any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, <del>ever</del> <b>EVER</b> ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding, regarding any professional or occupational license, or registration?</p>

18	<p>Field #29 Background Questions - Language added to #2</p> <p>any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, EVER ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding, regarding any professional or occupational license, or registration?</p> <p>“Involved” means having a license <a href="#">or registration</a> censured, suspended, revoked, canceled, terminated, <a href="#">restricted</a>; or, being assessed a fine, a <a href="#">cease and desist</a> order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license <a href="#">or entering into a settlement</a> to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license or registration. “Involved” also means having a license application denied or the act of withdrawing an application to avoid a denial. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal <a href="#">or late filing</a> fee.</p>	<p>2. Has the business entity or</p>
19	<p>Field #29 Background Questions - Language added/removed to #3</p> <p>3. Has any demand been made or judgment rendered against the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company, for overdue monies <del>by an insurer, insured or producer</del> <a href="#">or have you</a> <b>EVER</b> <del>ever</del> been subject to a bankruptcy proceeding? Do not include personal bankruptcies, unless they involve funds held on behalf of others, <a href="#">which would include, but is not limited to, deposits, insured’s premium payments, employee tax withholdings, escrow accounts, or any monies held by you in a capacity for third parties.</a></p>	
20	<p>Field #29 Background Questions - Change ever to EVER #4</p> <p>owner, partner, officer or director of the business entity, or member or manager of a limited liability company, <b>EVER</b> <del>ever</del> been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement?</p>	<p>4. Has the business entity or any</p>
21	<p>Field #29 Background Questions - Change ever to EVER #5</p> <p>owner, partner, officer or director of the business entity, or member or manager of a limited liability company, a party to, <del>or</del> <b>EVER</b> <del>ever</del> been found liable in any lawsuit or arbitration proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?</p> <p>If you answer yes, you must attach to this application:</p> <ul style="list-style-type: none"> <li>a) a written statement summarizing the details of each incident,</li> <li>b) a copy of the Petition, Complaint or other document that commenced the lawsuit arbitrations, or mediation proceedings and</li> <li>c) a copy of the official documents which demonstrates the resolution of the charges or any final judgment.</li> </ul>	<p>5. Is the business entity or any</p>

22	<p>Field #29 Background Questions - Change ever to EVER</p> <p>owner, partner, officer or director of the business entity, or member or manager of a limited liability company <del>EVER ever</del> had an insurance agency or securities broker contract or any other business relationship with an insurance company or securities business terminated for any alleged misconduct?</p> <p>If you answer yes, you must attach to this application:</p> <p>a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving an insurance license, and</p> <p>b) copies of all relevant documents.</p>	6. Has the business entity or any
23	<p>Field #29 Background Questions - Add Language #6</p> <p>any owner, partner, officer or director of the business entity, or member or manager of a limited liability company <del>EVER ever</del> had an insurance agency <u>or securities broker</u> contract or any other business relationship with an insurance company or securities business terminated for any alleged misconduct?</p> <p>If you answer yes, you must attach to this application:</p> <p>a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving an insurance license, and</p> <p>b) copies of all relevant documents.</p>	6. Has the business entity or
24	<p>Field #29 Background Questions - Add Language #7</p> <p>answer to one or more of the Background Questions for this application, are you submitting, <u>or have you previously submitted</u> document(s) to the NAIC/NIPR Attachments Warehouse?</p>	7. In response to a “Yes”
25	<p>Field #29 Background Questions - Add Language #7</p> <p>answer to one or more of the Background Questions for this application, are you submitting, or have you previously submitted document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p><u>NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</u></p> <ul style="list-style-type: none"> <li><u>•You have previously loaded a document(s);</u></li> <li><u>•You have recently submitted an application that is pending;</u></li> <li><u>•You are submitting the same type of application (resident/nonresident, initial/renewal); and</u></li> <li><u>•You are answering “Yes” to the same background question(s).</u></li> </ul> <p><u>If you have not previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</u></p>	7. In response to a “Yyes”

26	<p>Field #29 Background Questions - Removal of Language #7</p> <p>“Yyes” answer to one or more of the Background Questions for this application, are you submitting, or have you previously submitted document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p>NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</p> <ul style="list-style-type: none"> <li>•You have previously loaded a document(s);</li> <li>•You have recently submitted an application that is pending;</li> <li>•You are submitting the same type of application (resident/nonresident, initial/renewal); and</li> <li>•You are answering “Yes” to the same background question(s).</li> </ul> <p style="text-align: right;">If you have not</p> <p>previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</p> <p><del>If you answer yes:</del></p> <p><del>Will you be associating (linking) previously filed documents from the NAIC/NIPR Attachments Warehouse to this application?—</del></p> <p><del>Note: If you have previously submitted documents to the Attachments Warehouse that are intended to be filed with this application, you must go to the Attachments Warehouse and associate (link) the supporting document(s) to this application based upon the particular background question number you have answered yes to on this application. You will receive information in a follow-up page at the end of the application process, providing a link to the Attachment Warehouse instructions.</del></p>	7. In response to a
27	<p>Field #30 Applicant's Cerification and Attestation - Add/Delete Language #5</p> <p>which this application is made to give any information they may have concerning <del>me</del> <a href="#">the business entity or any individual named in this application</a>, as permitted by <a href="#">law and in the furtherance of the Commissioner’s, Director’s, or Superintendent’s official duties</a>, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on <a href="#">their behalf in the furtherance of official duties</a> their behalf from any and all liability of whatever nature by reason of furnishing such information.</p>	5. I authorize the jurisdictions to
28	<p>Field #30 Applicant's Cerification and Attestation - Add/Delete Language #6</p> <p>understand <del>and</del> <a href="#">that the business entity will</a> comply with the insurance laws and regulations of the jurisdictions to which I am applying for licensure/registration.</p>	6. I acknowledge that I
29	<p>Field #30 Applicant's Cerification and Attestation - Add/Delete Language #7</p> <p>Applications, I certify that <del>I am</del> <a href="#">that the business entity is</a> licensed and in good standing in my home state/resident state for the lines of authority requested from the non-resident state. <a href="#">The state will rely on an electronic verification of an Applicant’s resident license through the NAIC’s State Producer Licensing Database in lieu of requiring an original Letter of Certification from the resident state.</a></p>	7. For Non-Resident License

30	Field #30 Applicant's Certification and Attestation - Add/Delete Language #8. request, I will furnish the jurisdiction(s) to which I am applying <a href="#">on behalf of the business entity</a> , certified copies of any documents attached to this application or requested by the jurisdiction(s).	8. I hereby certify that upon
32	Field #31 Attachments - Delete Attachment Section #1  <del>1. For Non-Resident License Applications and unless otherwise noted in the State Matrix of Business Rules, a state will rely on an electronic verification of an Applicant's resident license through the NAIC's State Producer Database in lieu of requiring an original Letter of Certification from the resident state</del>	<del>The following attachments must accompany the application otherwise the application may be returned unprocessed or considered deficient.</del>
33	Field #31 Attachments - Delete Attachment Section #2  <del>2. Any jurisdiction specific attachments listed in the State Matrix of Business Rules (www.nipr.com):</del>	<del>The following attachments must accompany the application otherwise the application may be returned unprocessed or considered deficient.</del>

<b>BUSINESS ENTITY RENEWAL APPLICATION - LIST OF REVISIONS</b>	
Adopted by the Executive (EX) Committee and Plenary, XX, 20XX	
Adopted by the Market Regulation and Consumer Affairs (D) Committee, XX, 20XX	
Adopted by the Producer Licensing (D) Task Force, XX, 20XX	
Adopted by Producer Licensing Uniformity (D) Working Group, June 4, 2024	
#	REVISION
1	<p>Field #20 - Background Questions -Language moved from 1c. to the top of Background Question section <a href="#">NOTE: For Questions 1a, 1b and 1c, “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest.</a></p> <p><a href="#">If you answer yes to any of these questions, you must attach to this application:</a></p> <p><a href="#">a) a written statement explaining the circumstances of each incident,</a></p> <p><a href="#">b) a copy of the charging document of each incident,</a></p> <p><a href="#">c) a copy of the official document of each incident, which demonstrates the resolution of the charges or any final judgment.</a></p>
2	<p>Field #20 Background Questions - Changed ever to EVER</p> <p>1a. Has the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> been convicted of a misdemeanor, had a judgment withheld or deferred or is the business entity or any owner, partner, officer or director of the business entity, or member or manager currently charged with, committing a misdemeanor?</p>
3	<p>Field #20 Background Questions - Changed ever to EVER</p> <p style="text-align: right;">1b. Has the business</p> <p>entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company <del>ever</del> <b>EVER</b> ever been convicted of a felony, had judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company currently charged with committing a felony?</p>

4	<p>Field #20 Background Questions - Add NOTE Language and moved to top of section</p> <p>1b. Has the business entity or any owner, partner, officer or director of the business entity, or member or manager of a limited liability company ever EVER ever been convicted of a felony, had judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court.)</p> <p>If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033? <a href="https://www.naic.org/documents/prod_serv_legal_sir_op.pdf"> (Note: For detailed information related to the requirements of 18 USC 1033 as it pertains to insurance licensing please refer to the NAIC publication “Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994” found at https://www.naic.org/documents/prod_serv_legal_sir_op.pdf)</a></p>
5	<p>Field #20 Background Questions - Changed ever to EVER</p> <p style="text-align: right;">1c. Has the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> ever been convicted of a military offense, had a judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, currently charged with committing a military offense?</p>
6	<p>Field #20 Background Questions - Removal of NOTE Language</p> <p style="text-align: right;">1c.</p> <p>Has the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, <del>ever</del> <b>EVER</b> ever been convicted of a military offense, had a judgment withheld or deferred, or is the business entity or any owner, partner, officer or director of the business entity or member or manager of a limited liability company, currently charged with committing a military offense? .</p> <p><del>NOTE: For Questions 1a, 1b, and 1c “Convicted” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence or a fine.</del></p> <p><del>If you answer yes to any of these questions, you must attach to this application:</del></p> <ul style="list-style-type: none"> <li><del>a) a written statement identifying all parties involved (including their percentage of ownership, if any) and explaining the circumstances of each incident;</del></li> <li><del>b) a copy of the charging document;</del></li> <li><del>c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.</del></li> </ul>
7	<p>Field #20 Background Questions - Change ever to EVER</p> <p style="text-align: right;">2. Has the business entity or any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, <del>ever</del> <b>EVER</b> ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding, regarding any professional or occupational license, or registration?</p>



8	<p>Field #20 Background Questions - Language add/delete to #2</p> <p>or any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, EVER ever been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding, regarding any professional or occupational license, or registration?</p> <p>“Involved” means having a license <a href="#">or registration</a> censured, suspended, revoked, canceled, terminated, <a href="#">restricted</a>; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license <a href="#">or entering into a settlement</a> to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license or registration. “Involved” also means having a license application denied or the act of withdrawing an application to avoid a denial. You may EXCLUDE terminations due solely to <a href="#">noncompliance with continuing education requirements</a> or failure to pay a renewal <a href="#">or late filing</a> fee.</p>	2. Has the business entity
	<p>Field #20 Background Questions - Add Language #3</p> <p>answer to one or more of the Background Questions for this application, are you submitting, <a href="#">or have you previously submitted</a> document(s) to the NAIC/NIPR Attachments Warehouse?</p>	3. In response to a “ <a href="#">Y</a> yes”
9	<p>Field #20 Background Questions - Add Language #3</p> <p>answer to one or more of the Background Questions for this application, are you submitting, <a href="#">or have you previously submitted</a> document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p><a href="#">NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</a></p> <ul style="list-style-type: none"> <li><a href="#">•You have previously loaded a document(s);</a></li> <li><a href="#">•You have recently submitted an application that is pending;</a></li> <li><a href="#">•You are submitting the same type of application (resident/nonresident, initial/renewal); and</a></li> <li><a href="#">•You are answering “Yes” to the same background question(s).</a></li> </ul> <p><a href="#">If you have not previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</a></p>	3. In response to a “ <a href="#">Y</a> yes”

10	<p>Field #20 Background Questions - Removal of Language #3</p> <p>“Yyes” answer to one or more of the Background Questions for this application, are you submitting, or have you previously submitted document(s) to the NAIC/NIPR Attachments Warehouse?</p> <p>NOTE: The state(s) identified on this application will receive an alert that your supporting documents are available if:</p> <ul style="list-style-type: none"> <li>•You have previously loaded a document(s);</li> <li>•You have recently submitted an application that is pending;</li> <li>•You are submitting the same type of application (resident/nonresident, initial/renewal); and</li> <li>•You are answering “Yes” to the same background question(s).</li> </ul> <p>previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.</p> <p><del>If you answer yes:</del></p> <p><del>Will you be associating (linking) previously filed documents from the NAIC/NIPR Attachments Warehouse to this application?—</del></p> <p><del>Note: If you have previously submitted documents to the Attachments Warehouse that are intended to be filed with this application, you must go to the Attachments Warehouse and associate (link) the supporting document(s) to this application based upon the particular background question number you have answered yes to on this application. You will receive information in a follow-up page at the end of the application process, providing a link to the Attachment Warehouse instructions.</del></p>	3. In response to a
11	<p>Field #21 Applicant's Cerification and Attestation - Add/Delete Language #5</p> <p>which this application is made to give any information they may have concerning <del>me</del> <a href="#">the business entity or any individual named in this application</a>, as permitted by law <a href="#">and in the furtherance of the Commissioner’s, Director’s, or Superintendent’s official duties</a>, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on their <a href="#">behalf in the furtherance of official duties</a> their behalf from any and all liability of whatever nature by reason of furnishing such information.</p>	5. I authorize the jurisdictions to
12	<p>Field #21 Applicant's Cerification and Attestation - Add/Delete Language #6</p> <p>understand <del>and</del> <a href="#">that the business entity will</a> comply with the insurance laws and regulations of the jurisdictions to which I am applying for licensure/registration.</p>	6. I acknowledge that I
13	<p>Field #21 Applicant's Cerification and Attestation - Add/Delete Language #7</p> <p>Applications, I certify that <del>I am</del> <a href="#">that the business entity is</a> licensed and in good standing in my home state/resident state for the lines of authority requested from the non-resident state. <a href="#">The state will rely on an electronic verification of an Applicant’s resident license through the NAIC’s State Producer Licensing Database in lieu of requiring an original Letter of Certification from the resident state.</a></p>	7. For Non-Resident License

14	Field #21 Applicant's Certification and Attestation - Add Language #8. 8. I hereby certify that upon request, I will furnish the jurisdiction(s) to which I am applying <a href="#">on behalf of the business entity</a> , certified copies of any documents attached to this application or requested by the jurisdiction(s).
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Adopted by the Uniform Education (D) Working Group, Oct. 29, 2024

## **NAIC – CONTINUING EDUCATION AUDIT PROCEDURES**

The purpose of this procedure is to provide instructions on auditing approved continuing education (CE) courses. At a minimum, \_\_\_% [optional – determined by state] of all approved CE courses, all active providers, and instructors are reviewed once every [insert timeframe] pursuant to NAIC guidelines. Audits consist of classroom, webinar, self-study, and desk, though no more than [insert percentage – optional state decision] of such audits shall be desk audits.

Perform the following steps during a CE audit:

1. Obtain detailed information on the course location for the auditor.
2. Ensure the class is still scheduled 24 hours prior to the date of course offering.
3. Pull the course outline and all supporting documentation from the system.
4. Email the auditor the authorization letter, course outline, and all supporting documentation 24 hours before the class begins.
5. Auditor to complete prescribed audit form.
6. Receive the audit paperwork back from the auditor.
7. Send follow-up notices, as necessary.
8. Forward requested documentation to [insert state] as necessary.

Once the audit is complete, the auditor will return the materials to [insert state] within \_\_\_ days of the audit. [optional – determined by state]

The prescribed audit form is reviewed for any discrepancies or comments.

### **TASK**

### **ACTIVITY**

Initiate Audit:

1. Obtain a list of available course offerings in [insert state].
2. Email auditors the list of course offerings in [insert state].
3. An auditor provides the list of courses they would like to audit and compares it to the completed audits file to ensure the same provider is not audited twice.

**Note:** This will begin the audit process.

Pull Documents:

1. Pull copies of course information, outlines, and course schedules for courses being offered.
2. Contact the provider (via telephone anonymously, for the most part) to find exact locations and dates of courses ONLY if the provider has not entered the information in the system.

**Note:** Courses must be in [insert state]. Audits cannot be performed in other states. Occasionally, an additional audit may be requested directly from the state.

- Review Documents:
1. Review documents pulled to be sure all copies are clear prior to forwarding them to the auditor(s).
  2. Add the provider to the established completed audits file.
  3. Confirm the course start and end time with the auditor and verify that the auditor will conduct the audit for the entire duration of the course.
  4. Forward necessary documents and copies of the prescribed audit form to the appropriate auditor.

- Receive Audits:
1. Upon receipt of completed audits, review the prescribed audit form(s) to ensure they are complete. If not, contact the auditor and advise; follow up, as necessary.

Review Audits for Deficiencies: **Note:** All notifications must be emailed to providers within five (5) days of receiving the audit reports. Review the prescribed audit form(s) as follows:

1. If there are no issues, email the provider with a completed course audit letter stating that an audit was conducted and there were no violations.
2. Discrepancies:
  - A. A discrepancy notice should be sent for any “No” responses on the audit form.
  - B. If the provider did not conduct an accurate attendance verification, an explanation must be provided.
  - C. If the number of credits taught is less than the number of credits approved, an explanation must be provided.
  - D. Compare outlines and supply the provider with a detailed breakdown of differences.
  - E. If a licensee who did not sit for an entire class is given credit, an explanation must be provided.
3. If no response is received from the provider within \_\_ business days [optional – determined by state], then a follow-up letter must be sent to the provider. The letter must be sent via certified mail and include a copy of the initial notice.
4. If no response is received after \_\_ business days [optional – determined by state], forward all materials to the [insert appropriate person] for follow-up.
5. [insert state or third-party administrator] will also audit the number of licensees received on banked rosters from the audited course. The auditor indicates the number of attendees on the audit form.

- A. [insert state or third-party administrator] must check to ensure this was the number of licensees submitted on the roster.
- B. If there is a discrepancy, send a notice to the provider questioning this finding.
- C. If no response is received to the notice after ?? business days, forward all material to the [insert appropriate person] for follow-up.

**Note:** If questions arise from the audit, forward documents to [insert appropriate person] for clarification.

6. [insert state or third-party administrator] will track receipt of the banked rosters from the audited course(s) to ensure that the provider follows through on submission.

**Note:** The provider must submit the course completion roster to [insert state or third-party administrator] within \_\_ days of completion. [optional – determined by state]

- Follow Up:
1. Receive class roster(s) from the provider to confirm information provided by the auditor.
  2. Verify roster count and report any deficiencies to the [insert appropriate person].

**To Process Desk Audits of Already Held Courses:**

1. Generate a list of already banked courses within a certain time frame.
2. Email the provider an audit letter asking for the sign-in sheet used along with the instructor’s full name and instructor number.
3. Compare the list of banked students in the system against the sign-in sheet from the provider to make sure the same students who signed in were the ones who received credit. Also, compare the number of students and verify the license number of each student.
4. Confirm the instructor is approved and for the course authority the course is approved for.

**Note:** Instructors do not have to be approved for a single-session course.

5. If there is no discrepancy, email the provider the completed course audit letter stating the audit is complete and there are no violations.
6. If there are violations, list the violations in the audit letter and wait for the provider to respond in \_\_ days with the corrections. [optional – determined by state]
7. Enter complete audit information on the desk audit list.

**For Self-Study/Online Audits:**

1. Obtain a list of approved self-study/online courses within a certain time frame.
2. Email the provider an audit letter requesting a user ID, password, exam, and answer key to complete an audit of their self-study/online course.
3. Complete the course as a student, answering the online course audit questionnaire form throughout the course until you have completed the course with a passing grade.
4. If there are no violations, email the provider a completed course audit letter stating that an online audit was completed and there were no violations.
5. If there are violations (all responses must be “Yes”), list the violations in the audit letter and wait for the provider to respond within \_\_\_ days with the corrections. [optional – determined by state]
6. Audit the course again when the provider has confirmed violations have been corrected. You may have to contact the provider again for a new user ID and password.
7. Track completed audit information.

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*Adopted by the Producer Licensing (D) Task Force, Nov. 17, 2024*

*Adopted by the Public Adjuster Licensing (D) Working Group, July 17, 2024*

*Revision marks reflect proposed changes from Public Adjuster Model Act adopted by the NAIC in 2005.*

## PUBLIC ADJUSTER LICENSING MODEL ACT

### Table of Contents

Section 1.	Purpose and Scope
Section 2.	Definitions
Section 3.	License Required
Section 4.	Application for License
Section 5.	Resident License
Section 6.	Examination
Section 7.	Exemptions from Examination
Section 8.	Nonresident License Reciprocity
Section 9.	License
Section 10.	Apprentice Public Adjuster License [Optional]
Section 11.	License Denial, Nonrenewal, or Revocation
Section 12.	Bond or Letter of Credit
Section 13.	Continuing Education
Section 14.	Public Adjuster Fees
Section 15.	Contract Between Public Adjuster and Insured
<a href="#">Section 16.</a>	<a href="#">Unlicensed Actors</a>
Section <del>16</del> <a href="#">17</a> .	Escrow or Trust Accounts
Section <del>17</del> <a href="#">18</a> .	Record Retention
Section <del>18</del> <a href="#">19</a> .	Standards of Conduct of Public Adjuster
Section <del>19</del> <a href="#">20</a> .	Reporting of Actions
Section <del>20</del> <a href="#">21</a> .	Regulations
Section <del>21</del> <a href="#">22</a> .	Severability
Section <del>22</del> <a href="#">23</a> .	Effective Date

### Section 1. Purpose and Scope

This Act governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims, [excluding claims for personal or commercial auto lines of insurance](#).

**Drafting Note:** It is recommended that any statute or regulation inconsistent with this Act be repealed or amended.

**Drafting Note:** This Act also requires a report to the insurance commissioner of any action in another jurisdiction against either the public adjuster license or licensee.

**Drafting Note:** [This Act is not intended to apply to the settlement of claims for personal or commercial auto lines of insurance.](#)

### Section 2. Definitions

- A. “Apprentice public adjuster” means the one who is qualified in all respects as a public adjuster except as to experience, education and/or training.
- B. “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.
- C. “Catastrophic disaster” according to the Federal Response Plan, means an event that results in large numbers of deaths and injuries; causes extensive damage or destruction of facilities that provide and sustain human needs; produces an overwhelming demand on state and local response resources and mechanisms; causes a severe long-term effect on general economic activity; and severely affects state, local and private



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- sector capabilities to begin and sustain response activities. A catastrophic disaster shall be declared by the President of the United States or the Governor of the state or district in which the disaster occurred.
- D. “Fingerprints” for the purposes of this act, means an impression of the lines on the finger taken for purpose of identification. The impression may be electronic or in ink converted to electronic format.
- E. “Home state” means the District of Columbia and any state or territory of the United States in which the public adjuster’s principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the ‘home state.’
- F. “Individual” means a natural person.
- G. “Person” means an individual or a business entity.
- H. “Public adjuster” means any person who, for compensation or any other thing of value on behalf of the insured:
- (1) Acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
  - (2) Advertises for employment as a public adjuster of insurance claims or solicits business or represents himself or herself to the public as a ~~an~~ public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
  - (3) Directly or indirectly solicits business, investigates or adjusts losses, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy, for the insured.
- I. “Uniform individual application” means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Individual Application for resident and nonresident individuals.
- J. [Optional] “Uniform business entity application” means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

**Drafting Note:** Subsection J is optional and would apply only to those states that have a business entity license requirement.**Drafting Note:** If any term is similarly defined in a relevant section of the state’s insurance code, do not include the definition of the term in this Act or, in the alternative, reference the statute: “[term] is defined in [insert appropriate reference to state law or regulation].”**Section 3. License Required**

- A. A person shall not act, ~~or~~ hold himself/herself out as a public adjuster, solicit, or negotiate a contract for public adjusting services in this state unless the person is licensed as a public adjuster in accordance with this Act.
- B. A person licensed as a public adjuster shall not misrepresent to a claimant that ~~he or she is~~ they are an

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- adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.
- C. A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the insurance commissioner shall find that:
- (1) The business entity has paid the fees set forth in [insert appropriate reference to state law or regulation; and
  - (2) The business entity has designated a licensed public adjuster responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

**Drafting Note:** Subsection C is optional and would apply only to those states that have a business entity license requirement.

- D. Notwithstanding subsection A through C, a license as a public adjuster shall not be required of the following:
- (1) An attorney-at-law admitted to practice in this state, when acting in his or her professional capacity as an attorney;
  - (2) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
  - (3) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers and handwriting experts;
  - (4) A licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or
  - (5) A person who settles subrogation claims between insurers.

#### **Section 4. Application for License**

- A. A person applying for a public adjuster license shall make application to the commissioner on the appropriate uniform application or other application prescribed by the commissioner.
- B. The applicant shall declare under penalty of perjury and under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.
- C. In order to make a determination of license eligibility, the insurance commissioner is authorized to require fingerprints of applicants and submit the fingerprints and the fee required to perform the criminal history record checks to the state identification bureau (or state department of justice public state agency) and the Federal Bureau of Investigation (FBI) for state and national criminal history record checks; the insurance commissioner shall require a criminal history record check on each applicant in accordance with this Act. The insurance commissioner shall require each applicant to submit a full set of fingerprints in order for the insurance commissioner to obtain and receive National Criminal History Records from the FBI Criminal Justice Information Services Division.

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- (1) The insurance commissioner may contract for the collection, transmission and resubmission of fingerprints required under this section. If the commissioner does so, the fee for collecting, transmitting and retaining fingerprints shall be payable directly to the contractor by the person. The insurance commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.
- (2) The insurance commissioner may waive submission of fingerprints by any person that has previously furnished fingerprints and those fingerprints are on file with the Central Repository of the ~~National Association of Insurance Commissioners~~ (NAIC), its affiliates or subsidiaries.
- (3) The insurance commissioner is authorized to receive criminal history record information in lieu of the [insert reference to Department of Justice/Public Safety Agency] that submitted the fingerprints to the FBI.
- (4) The insurance commissioner is authorized to submit electronic fingerprint records and necessary identifying information to the NAIC, its affiliates or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide insurance commissioners with access to fingerprint records in order to perform criminal history record checks.

**Drafting Note:** The FBI requires that fingerprints be submitted to the state Department of Law Enforcement, Public Safety or Criminal Justice for a check of state records before the fingerprints are submitted to the FBI for a criminal history check. The FBI recommends all fingerprint submissions to be in an electronic format. The FBI has approved the language in Section 4 (C) to authorize a state identification bureau to submit fingerprints on behalf of its applicants in conjunction with licensing and employment.

**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

**Drafting Note:** This provision does not permit the sharing of criminal history record information with the NAIC or other insurance commissioners as such sharing of information is prohibited by 28 CFR 20.33.

## Section 5. Resident License

- A. Before issuing a public adjuster license to an applicant under this section, the commissioner shall find that the applicant:
  - (1) Is eligible to designate this state as his or her home state or is a nonresident who is not eligible for a license under Section 8;
  - (2) Has not committed any act that is a ground for denial, suspension or revocation of a license as set forth in Section 11;
  - (3) Is trustworthy, reliable, and of good reputation, evidence of which may be determined by the commissioner;
  - (4) Is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 12 of this Act;
  - (5) Has paid the fees set forth in [insert appropriate reference to state law or regulation]; and
  - (6) Maintains an office in the home state of residence with public access by reasonable appointment and/or regular business hours. This includes a designated office within a home state of residence.

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- B. In addition to satisfying the requirements of Subsection A, an individual shall
- (1) Be at least eighteen (18) years of age; and
  - (2) Have successfully passed the public adjuster examination.
  - (3) Designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state; and
  - (4) Designate only licensed individual public adjusters to exercise the business entity's license.

**Drafting Note:** Subsection C is optional and would apply only to those states that have a business entity license requirement. C's PLMA Section 6B.

- C. The commissioner may require any documents reasonably necessary to verify the information contained in the application.

## **Section 6. Examination**

- A. An individual applying for a public adjuster license under this act shall pass a written examination unless exempt pursuant to Section 7. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the commissioner.
- B. The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in [insert appropriate reference to state law or regulation].
- C. Each individual applying for an examination shall remit a non-refundable fee as prescribed by the commissioner as set forth in [insert appropriate reference to state law or regulation].
- D. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

**Drafting Note:** A state may wish to prescribe by regulation limitations on the frequency of application for examination in addition to other preclicensing requirements.

**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

## **Section 7. Exemptions from Examination**

- A. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in another state based on a public adjuster examination shall not be required to complete any preclicensing examination. This exemption is only available if the person is currently licensed in that state or if the application is received within twelve (12) months of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.
- B. A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this state shall make application within ninety (90) days of establishing legal residence to become a

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- resident licensee pursuant to Section 5. No prelicensing examination shall be required of that person to obtain a public adjuster license.
- C. An individual who applies for a public adjuster license in this state who was previously licensed as a public adjuster in this state shall not be required to complete any prelicensing examination. This exemption is only available if the application is received within twelve (12) months of the cancellation of the applicant's previous license in this state and if, at the time of cancellation, the applicant was in good standing in this state.

**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

## **Section 8. Nonresident License Reciprocity**

- A. Unless denied licensure pursuant to Section 11, a nonresident person shall receive a nonresident public adjuster license if:
- (1) The person is currently licensed as a resident public adjuster and in good standing in his or her home state;
  - (2) The person has submitted the proper request for licensure, has paid the fees required by [insert appropriate reference to state law or regulation] [NAIC's PLMA Section 8A(2)], and has provided proof of financial responsibility as required in Section 12 of this Act;
  - (3) The person has submitted or transmitted to the commissioner the appropriate completed application for licensure; and
  - (4) The person's home state awards non-resident public adjuster licenses to residents of this state on the same basis.
- B. The commissioner may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.
- C. As a condition to continuation of a public adjuster license issued under this section, the licensee shall maintain a resident public adjuster license in his or her home state. The non-resident public adjuster license issued under this section shall terminate and be surrendered immediately to the commissioner if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home state. Notification to the state or states where non-resident license is issued must be made as soon as possible, yet no later than thirty (30) days of change in new state resident license. Licensee shall include new and old address. A new state resident license is required for non-resident licenses to remain valid. The new state resident license must have reciprocity with the licensing non-resident state(s) for the non-resident license not to terminate.

**Drafting Note:** If the state has adopted the PLMA, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

## **Section 9. License**

- A. Unless denied licensure under this Act, persons who have met the requirements of this Act shall be issued a public adjuster license.
- B. A public adjuster license shall remain in effect unless revoked, terminated or suspended as long as the

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- request for renewal and fee set forth in [insert appropriate reference to state law or regulation] is paid and any other requirements for license renewal are met by the due date.
- C. The licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address, change of legal name, or change of information submitted on the application within thirty (30) days of the change.
- D. A licensed public adjuster shall be subject to [cite state's Unfair Claims Settlement Act and state's Trade Practices and Fraud sections of the Insurance Code].
- E. A public adjuster who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal, be issued a new public adjuster license upon the commissioner's receipt of the request for renewal. However, a penalty in the amount of double the unpaid renewal fee shall be required for the issue of the new public adjuster license. The new public adjuster license shall be effective the date the commissioner receives the request for renewal and the late payment penalty.
- F. Any public adjuster licensee that fails to apply for renewal of a license before expiration of the current license shall pay a lapsed license fee of twice the license fee and be subject to other penalties as provided by law before the license will be renewed. If the Department receives the request for reinstatement and the required lapsed license fee within sixty (60) days of the date the license lapsed, the Department shall reinstate the license retroactively to the date the license lapsed. If the Department receives the request for reinstatement and the required lapsed license fee after sixty (60) days but within one year of the date the license lapsed, the Department shall reinstate the license prospectively with the date the license is reinstated. If the person applies for reinstatement more than one year from date of lapse, the person shall reapply for the license under this Act.
- G. A licensed public adjuster ~~that~~who is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance, may request a waiver of those procedures. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

**Drafting Note:** References to license "renewal" should be deleted in those states that do not require license renewal.

- H. The license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date, and any other information the commissioner deems necessary. I. In order to assist in the performance of the commissioner's duties, the commissioner may contract with non-governmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the commissioner may deem appropriate. ]

**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

## **Section 10.      Apprentice Public Adjuster License ~~{Optional}~~**

- A. The apprentice public adjuster license is an optional license to facilitate the training necessary to ensure reasonable competency to fulfill the responsibilities of a public adjuster as defined in [insert state statute].
- B. The apprentice public adjuster license shall be subject to the following terms and conditions:
- (1) An attestation/certification from a licensed public adjuster (licensee) shall accompany an application for an initial apprentice public adjuster license assuming responsibility for all actions

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of such applicant;

- (2) The apprentice public adjuster is authorized to adjust claims in the state that has issued licensure only;
- (3) The apprentice public adjuster shall not be required to take and successfully complete the prescribed public adjuster examination;
- (4) The licensee shall at all times be an employee of a public adjuster and subject to training, direction, and control by a licensed public adjuster;
- (5) The apprentice public adjuster license is for a period not to exceed twelve (12) months, the license shall not be renewed;
- (6) The licensee is restricted to participation in factual investigation, tentative closing and solicitation of losses subject to the review and final determination of a licensed public adjuster;
- (7) Compensation of an apprentice public adjuster shall be on a salaried or hourly basis only; and
- (8) The licensee shall be subject to suspension, revocation, or conditions in accordance with [Insert ~~S~~state ~~L~~aws].

## **Section 11. License Denial, Non-~~r~~Renewal, or Revocation**

- A. The commissioner may place on probation, suspend, revoke or refuse to issue or renew a public adjuster's license or may levy a civil penalty in accordance with [insert appropriate reference to state law] or any combination of actions, for any one or more of the following causes:
  - (1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
  - (2) Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner;
  - (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
  - (4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;
  - (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
  - (6) Having been convicted of a felony;
  - (7) Having admitted or been found to have committed any insurance unfair trade practice or insurance fraud;
  - (8) Using fraudulent, coercive or dishonest practices; or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
  - (9) Having an insurance license, or its equivalent, denied, suspended, or revoked in any other state,

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- province, district or territory;
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction;
  - (11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license;
  - (12) Knowingly accepting insurance business from an individual who is not licensed but who is required to be licensed by the commissioner;
  - (13) Failing to comply with an administrative or court order imposing a child support obligation; or
  - (14) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

**Drafting Note:** Paragraph (14) is for those states that have a state income tax.

- B. In the event that the action by the commissioner is to deny an application for or not renew a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the non-renewal or denial of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within [insert appropriate time period from state's administrative procedure act] for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held within [insert time period from state law] and shall be held pursuant to [insert appropriate reference to state law].
- C. The license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and the violation was neither reported to the commissioner nor corrective action taken.
- D. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine according to [insert appropriate reference to state law].
- E. The commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act and Title [insert appropriate reference to state law] against any person who is under investigation for or charged with a violation of this Act or Title [insert appropriate reference to state law] even if the person's license or registration has been surrendered or has lapsed by operation of law.

**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. The state may want to amend its relevant insurance producer statute to include public adjusters.

## **Section 12. Bond or Letter of Credit**

Prior to issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the insurance commissioner through a security bond or irrevocable letter of credit:

- A. A surety bond executed and issued by an insurer authorized to issue surety bonds in this state, which bond:
  - (1) Shall be in the minimum amount of \$20,000;



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- (2) Shall be in favor of this state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and
  - (3) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the commissioner and given to the licensee.
- B. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit:
- (1) Shall be in the minimum amount of \$20,000;
  - (2) Shall be to an account to the commissioner and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster; and
  - (3) Shall not be terminated unless at least thirty (30) days' prior written notice will have been filed with the commissioner and given to the licensee.
- C. The issuer of the evidence of financial responsibility shall notify the commissioner upon termination of the bond or letter of credit, unless otherwise directed by the commissioner.
- D. The commissioner may ask for the evidence of financial responsibility at any time he or she deems relevant.
- E. The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

### **Section 13. Continuing Education**

- A. An individual, who holds a public adjuster license and who is not exempt under Subsection B of this section, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, including ethics, reported on a biennial basis in conjunction with the license renewal cycle.
- B. This section shall not apply to:
  - (1) Licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or
  - (2) Licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this state on the same basis.
- C. Only continuing education courses approved by the commissioner shall be used to satisfy the continuing education requirement of Subsection A.

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## Section 14. Public Adjuster Fees

~~A. [Optional] A public adjuster may charge the insured a reasonable fee as determined by state law [insert appropriate reference to state law or regulation].~~

~~Drafting Note: This model designates Section 14A as optional. A majority of the states do not require a cap on fees of public adjusters.~~

~~BA.~~ A public adjuster shall not pay a commission, service fee or other valuable consideration to a person for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.

~~CB.~~ A person shall not accept a commission, service fee or other valuable consideration for investigating or settling claims in this state if that person is required to be licensed under this Act and is not so licensed.

~~DC.~~ A public adjuster may pay or assign commission, service fees or other valuable consideration to persons who do not investigate or settle claims in this state, unless the payment would violate [insert appropriate reference to state law, i.e. citation to anti-rebating statute or sharing commission statute, if applicable].

~~ED.~~ ~~[Optional] In the event of a catastrophic disaster, t~~here shall be limits on ~~e~~atastrophic fees. ~~n~~No public adjuster shall charge, agree to or accept as compensation or reimbursement any payment, commission, fee, or ~~an~~other thing of value equal ~~to~~of more than ten percent (10%) ~~of any insurance settlement or proceeds for any catastrophic insurance claim settlement, and no more than fifteen percent (15%) for any insurance claim settlement.~~ No public adjuster shall require, demand or accept any fee, retainer, compensation, deposit, or other thing of value, prior to settlement of a claim.

~~Drafting Note: This model designates Section 14E, as optional. It is recommended that the states that establish catastrophic fees utilize the recommended language in this model.~~

## Section 15. Contract Between Public Adjuster and Insured

A. Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

- (1) Legible full name of the adjuster signing the contract, as specified in Department of Insurance records;
- (2) Permanent home state business address and phone number;
- (3) Department of Insurance license number;
- (4) Title of "Public Adjuster Contract";
- (5) The insured's full name, street address, insurance company name and policy number, if known or upon notification;
- (6) A description of the loss and its location, if applicable;
- (7) Description of services to be provided to the insured;
- (8) Signatures of the public adjuster and the insured;
- (9) Date contract was signed by the public adjuster and date the contract was signed by the insured;

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- (10) Attestation language stating that the public adjuster is fully bonded pursuant to state law; and
  - (11) Full salary, fee, commission, compensation or other considerations the public adjuster is to receive for services.
- B. The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.
- (1) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.
  - (2) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.
  - (3) Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the commissioner. Such a redaction shall constitute an omission of material fact in violation of [insert reference to relevant state law].
- C. If the insurer, not later than seventy-two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:
- (1) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;
  - (2) Inform the insured that loss recovery amount might not be increased by insurer; and
  - (3) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.
- ~~D. A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured, including but not limited to any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm which that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall include any corporation, partnership, association, joint stock company or person.~~
- ED. A public adjuster contract may not contain any contract term that:
- (1) Allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;
  - (2) Requires the insured to authorize an insurance company to issue a check only in the name of the

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public adjuster;

- (3) Imposes collection costs or late fees; or
  - (4) Precludes a public adjuster from pursuing civil remedies.
- FE.** Prior to the signing of the contract the public adjuster shall provide the insured with a separate disclosure document regarding the claim process that states:
- (1) Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three (3) types of adjusters that could be involved in that process. The definitions of the three types are as follows:
    - (a) “Company adjuster” means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.
    - (b) “Independent adjuster” means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company’s interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.
    - (c) “Public adjuster” means the insurance adjusters who do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation.
  - (2) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.
  - (3) The insured has the right to initiate direct communications with the insured’s attorney, the insurer, the insurer’s adjuster, and the insurer’s attorney, or any other person regarding the settlement of the insured’s claim.
  - (4) The public adjuster is not a representative or employee of the insurer.
  - (5) The salary, fee, commission or other consideration is the obligation of the insured, not the insurer.
- GF.** The contracts shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the commissioner.
- HG.** The public adjuster shall provide the insurer a notification letter, which has been signed by the insured, authorizing the public adjuster to represent the insured’s interest. [The insurer shall verify the public adjuster holds a valid license with the Department of Insurance.](#)
- HI.** The public adjuster shall give the insured written notice of the insured’s right as provided in [cite the state consumer protection laws].
- IJ.** The insured has the right to rescind the contract within three (3) business days after the date the contract was signed. The rescission shall be in writing and mailed or delivered to the public adjuster at the address in the contract within the three (3) business day period.

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- ~~K.J.~~ If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within fifteen (15) business days following the receipt by the public adjuster of the cancellation notice.
- K. Subject to its terms relating to assignability, a property insurance policy, whether heretofore or hereafter issued, under the terms of which the policy and its rights and benefits are assignable, may provide that the rights and benefits under the insurance may only be assigned to a person who has the legal authority to represent the named insured or to a subsequent owner of the property to whom title is transferred, and may explicitly prohibit assignment of rights and benefits to any other person, including a property repair contractor. For purposes of this subsection, having “legal authority to represent the named insured” includes the person named by the named insured as having the named insured’s power of attorney, the person who is the named insured’s licensed public adjuster, or any other comparable person. Property repair contractors operating in this state may not subvert the public adjuster licensing requirements of [insert appropriate reference to state law] through the acquisition of a power of attorney from the named insured.

**Drafting Note:** The details in this section should comply with your state’s consumer protection contract rescission law.

## Section 16.      Unlicensed Actors

A person or entity commits a fraudulent insurance act if he or she:

- A.      Represents or advertises themselves to be a public adjuster who has not met the requirements of licensure under [insert appropriate reference to state law].
- B.      Conducts business for which a license is required under this Act without a license.

## **Section ~~16~~17.**      **Escrow or Trust Accounts**

A public adjuster who receives, accepts or holds any funds on behalf of an insured, towards the settlement of a claim for loss or damage, shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster’s home state or where the loss occurred.

## **Section ~~17~~18.**      **Record Retention**

- A. A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this section shall include the following:
- (1) Name of the insured;
  - (2) Date, location and amount of the loss;
  - (3) Copy of the contract between the public adjuster and insured;
  - (4) Name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
  - (5) Itemized statement of the insured’s recoveries;
  - (6) Itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;

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- (7) A register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including fees transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
  - (8) Name of public adjuster who executed the contract;
  - (9) Name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
  - (10) Evidence of financial responsibility in a format prescribed by the insurance commissioner.
- B. Records shall be maintained for at least five (5) years after the termination of the transaction with an insured and shall be open to examination by the commissioner at all times.
  - C. Records submitted to the commissioner in accordance with this section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the commissioner and shall not be subject to [insert reference to open record laws] of this state.

#### **Section ~~18~~19. Standards of Conduct of Public Adjuster**

- A. A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty the interest of his client alone; and to render to the insured such information, counsel and service, as within the knowledge, understanding and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interest.
- B. A public adjuster shall not solicit, or attempt to solicit, an insured during the progress of a loss-producing occurrence, as defined in the insured's insurance contract.
- C. A public adjuster shall not advertise or infer damage unless an inspection of the property has been completed.
- D. A public adjuster shall not offer to pay an insured's deductible, or claim the insured's deductible will be waived, as an inducement to using the services of a public adjuster.
- ~~E.~~ A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this Act.
- ~~F.~~ A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission or other consideration established in the written contract with the insured; ~~unless full written disclosure has been made to the insured as set forth in Section 15G.~~
- ~~G.~~ A public adjuster shall not acquire any interest in salvage of property subject to the contract with the insured ~~unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in Section 15G.~~
- ~~H.~~ The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person; ~~unless disclosed to the insured:~~
  - (1) With whom the public adjuster has a financial interest; or

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- (2) From whom the public adjuster may receive direct or indirect compensation for the referral.

**Drafting Note:** Optional language for Subsection F: "Licensees may not solicit a client for employment between the hours of \_\_\_ pm and \_\_\_ am."

~~G. The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any corporation, partnership, association, joint stock company or individual as set forth in Section 15A(4).~~

~~H.~~ Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation.

~~I.~~ Public adjusters shall adhere to the following general ethical requirements:

- (1) A public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;
- (2) A public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;
- (3) No public adjuster, while so licensed by the Department, may represent or act as a company adjuster, or independent adjuster on the same claim;

**Drafting Note:** If a state only allows licensure in one class of adjuster licensing, the adjuster may not represent another type of licensure in any circumstance.

- (4) The contract shall not be construed to prevent an insured from pursuing any civil remedy after the three-business day revocation or cancellation period;
- (5) A public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work; and
- (6) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

~~J.~~ A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

## **Section ~~19~~20. Reporting of Actions**

- A. The public adjuster shall report to the commissioner any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.
- B. Within thirty (30) days of the initial pretrial hearing date, the public adjuster shall report to the commissioner any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

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**Drafting Note:** If the state has adopted the Producer Licensing Model Act, it may not be necessary to adopt this section. Rather, the state may want to amend its relevant insurance producer statute to include public adjusters.

### **Section ~~20~~21. Regulations**

The commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

### **Section ~~21~~22. Severability**

If any provisions of this Act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

### **Section ~~22~~23. Effective Date**

This Act shall take effect [insert date]. Provided, however that the provision of Section 4 does not become effective until a state participates in the NAIC's central repository for the purpose of obtaining criminal background information.

**Drafting Note:** A minimum of six months to one-year implementation time for proper notice of changes, fees, and procedures is recommended.

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

*2005 Proc. 2<sup>nd</sup> Quarter 698 (adopted by parent committee).*

*2005 Proc. 3<sup>rd</sup> Quarter 26, 35-49 (amended and adopted by Plenary).*



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**NAIC Public Insurance Adjuster Surety Bond Sample**

BOND NO. \_\_\_\_\_

**Know All Persons by These Presents:**

That we, \_\_\_\_\_ as Principal, whose address is \_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_ as Surety, being a surety company authorized  
to do business in the State of \_\_\_\_\_ re bound to the \_\_\_\_\_ Department of Insurance in the sum of \$10,000.00 as specified  
at [ insert reference to state law or regulation]. The specified sum is payable to the [insert state] Department of Insurance for  
the use and benefit of any customer of the above described Principal and as defined by the [insert state] Insurance Code,  
[insert citation] in acceptable currency of the United States in accordance with the statutory provision cited above. By this  
instrument, we jointly and severally firmly bind ourselves, our heirs, executors, administrators, successors and assigns.

***The conditions of the above obligations are:***

**Whereas** the above named Principal has applied to the [insert state] Department of Insurance for a license as a Public  
Insurance Adjuster to engage in or continue the business of insurance as a Public Insurance Adjuster in accordance with the  
[insert state] Insurance Code;

**Now, Therefore,** should the Principal discharge losses that result from any final judgment recovered against the Principal by  
any customer, this obligation will become void. If this obligation is not void, it remains in full force and effect, subject to the  
following conditions:

1. As of \_\_\_\_\_, 20\_\_\_\_, this bond will be in full force and effect indefinitely. Continuation or renewal  
certificates are unnecessary.
2. The surety may, at any time, terminate this bond by submitting written notice to the [insert state] Department of  
Insurance thirty (30) days prior to the termination date. The surety, however, remains liable for any defaults under this bond  
committed prior to the termination date.
3. In no event will the aggregate liability of the Surety under this bond, for any or all damages to one or more  
claimants, exceed the penal sum of this bond.

**In Witness Whereof** said Principal and Surety have executed this bond this \_\_\_\_\_ day of \_\_\_\_\_  
, 20\_\_ to be effective the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
BY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
SURETY

## Draft Pending Adoption

Attachment Six  
Market Regulation and Consumer Affairs (D) Committee  
11/19/24

Draft: 10/27/24

### Market Analysis Procedures (D) Working Group Virtual Meeting (*in lieu of meeting at the Fall National Meeting*) October 21, 2024

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Oct. 21, 2024. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Teri Ann Mecca and Lori Plant (AR); Tolanda Coker (AZ); Don McKinley (CA); Tracy Garceau and Kelly Schultz (CO); Steve DeAngelis (CT); Pratima Lele (DC); Rachael Lozano (FL); Lori Cunningham (KY); Joshua Guillory (LA); Mary Lou Moran (MA); Raymond Guzman (MD); Timothy N. Schott (ME); Jeff Hayden and Danielle Torres (MI); David Dachs (MT); Robert McCullough and Martin Swanson (NE); Ralph Boeckman and Erin Porter (NJ); Jonathan Wycoff (NV); Larry Wertel (NY); Guy Self (OH); Zach Palank (OK); Karen Veronikis (PA); Brett Bache (RI); Rachel Moore (SC); Melissa Gerachis (VA); Marcia Violette (VT); Rebecca Rebholz and Darcy Paskey (WI); and Theresa Miller (WV).

#### 1. Adopted Its Summer National Meeting Minutes

Haworth made a motion, seconded by Veronikis, to adopt the Working Group's Aug. 5 minutes (*see NAIC Proceedings – Summer 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Two*). The motion passed unanimously.

#### 2. Received an Update from the MAPT Recommendations Subgroup

LeDuc said the MAPT Recommendations Subgroup has met four times since the last update. The Subgroup is continuing to work its way through all the sections included in the MAPT, discussing each data element's usefulness and any additional data elements that may assist analysts or increase the accuracy of the prioritization score.

LeDuc said that in the past four meetings, the Subgroup has considered the premium and market share sections, the loss and loss cost containment section, the Insurance Regulatory Information System (IRIS) scores, the section on market action exams, and the underwriting expenses and demographics section. She said some of the more significant recommendations will be to display direct written premium by line of business using a company's mix of business and projecting the current year's direct written premium using the quarterly premium. She said the Subgroup will also recommend removing the three-year average change columns and replacing them with year-over-year percentage changes for both the direct written premium and market share. She said that for losses, the Subgroup is recommending adding the percentage change between the last three years.

LeDuc said loss cost containment expenses appear to be an infrequently used statistic, so the Subgroup's recommendation will be to remove it from the prioritization algorithm but keep it in the MAPT for reference. She said the market action examination data is of less value, and the Subgroup will be recommending that the MAPT only provide the number of exams for each of the last three years rather than the current five years of data. Garceau said she agreed with limiting the market examination data to three years.

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.

## Draft Pending Adoption

Attachment Six  
Market Regulation and Consumer Affairs (D) Committee  
11/19/24

### 3. Considered MARS Level 1 Requirements

Haworth said the minimum Market Analysis Review System (MARS) level 1 review requirements were adopted by the Working Group in 2016. At that time, the Working Group adopted a plan to gradually raise the level 1 requirement from 10 reviews in 2017 to 30 by 2021. He said he recently queried how many level 1s were done in 2024, and only 17 states were on track to complete 30 level 1 reviews. He said the Market Actions (D) Working Group had not done a national analysis in a few years, and that may have contributed to the slowdown in level 1 reviews completed since many states would do level 1s in response to Market Actions (D) Working Group requests for analysis. He said the COVID-19 pandemic and high employee turnover have also contributed to the reduction in level 1s. He said that in addition to not doing the minimum required level 1s, many finished analyses are not using the most current data year. Haworth also noted that only 25 states have input any Market Action Tracking System (MATS) actions.

Coker asked how level 1 analyses relate to the Voluntary Market Regulation Certification Program. Haworth said the certification program requires the level 1s to be done but does not specify how many. The certification expects MARS analyses to be done because the other jurisdictions rely on them.

LeDuc noted that since turnover may account for the reduction in level 1 analyses, perhaps some jurisdictions may need additional resources from other jurisdictions or the NAIC to help meet their minimums. She said many regulators and the NAIC are open to helping.

Veronikis asked if there are negative connotations or consequences to not having completed the minimum requirements. LeDuc said the Market Information Systems Research and Development (D) Working Group receives the Market Information Systems (MIS) Data Analysis Metrics reports, which measure the completeness, timeliness, and accuracy of a number of MIS tools, including MARS. Commissioners receive this report.

Cunningham recalled that there used to be requirements for level 1s and level 2s that considered the size of the jurisdiction when determining the minimum requirements. LeDuc said there were these requirements, but they were replaced by the current requirements that require 30 in each jurisdiction. LeDuc said there is value in considering making the requirements state-specific based on varying considerations and said this may be something the Working Group can address next year.

Dachs said that as more MCAS lines of business are added, there is not always a corresponding line of business available in MARS. Haworth said this should be addressed in the rewrite of MARS. LeDuc said the Working Group could also review the specs for the rewrite next year.

### 4. Discussed the PPA and Homeowners MCAS Ratio 7

LeDuc said some concerns have been expressed about ratio 7 of the private passenger auto (PPA) and homeowners MCAS blanks. She said ratio 7 compares the reported number of lawsuits to the reported claims closed without payment. He said that in the reminder for this meeting, possible suggestions were provided for both the numerator and denominator. She said that after the discussion, the Working Group could also decide not to change the ratio.

Hayden said this began when a company submitted its MCAS and only reported lawsuits filed on claims closed without payment. When questioned about its unusually low ratio 7, the company said it only reported lawsuits on claims without payment because the denominator of ratio 7 is claims closed without payment so it assumed the intention was to only report lawsuits on that basis as well. Hayden said Torres checked with the NAIC to be

## Draft Pending Adoption

Attachment Six  
Market Regulation and Consumer Affairs (D) Committee  
11/19/24

sure that all claims lawsuits should be reported and not just those filed on claims closed without payment. The company said that results in higher ratio 7s because more lawsuits would be included in the numerator. The company asked if the denominator could be reconsidered.

LeDuc said that a change to a ratio does not normally affect the data elements being collected and reported by companies, and the change could be implemented immediately if the Working Group decided to make the change. However, to change the numerator to only include lawsuits on claims closed without payment, the Working Group would need to change how the data is collected to split the reported number of lawsuits between those brought on claims closed without payment and those brought on all other claims. She said this would require enough time for companies to prepare to report these two data elements and would fall under the MCAS change process deadline of June 1. LeDuc also said if the Working Group does adopt a change, any future trending on ratio 7 will need to note the change in the year that it is adopted.

Guillory said that Louisiana does not find ratio 7 useful because there is little correlation between lawsuits and claims closed without payment. Most lawsuits are on open claims that will likely be paid. He said Louisiana compares lawsuits filed to open claims. Lisa Brown (American Property Casualty Insurance Association—APCIA) agreed and added that lawsuits now also include non-claims-related lawsuits. Randy Helder (NAIC) said that non-claims-related lawsuits are broken out in the MCAS and not included in the numerator. Brown said the ratio formula provided on the MCAS webpage does not show that and suggested it be updated to clarify that the numerator is only “claims-related lawsuits”. Haworth also noted that many lawsuits are filed only to protect the statute of limitations, and the claim will ultimately be paid.

LeDuc suggested a denominator, such as the number of policies in force or claims paid, would be better than the current denominator. Self said what is important is to have a consistent anchor as a denominator that all companies report consistently. He said that could be “claims closed with payment.” Self said that even though companies are instructed not to report precautionary reserves that will be closed without payment, many companies continue to report these, and therefore, the number of claims closed without payment is reported inconsistently among companies. He agreed that the denominator would be better if it was claims closed with payment. LeDuc said that MCAS collects data on the number of autos and dwellings insured and suggested this could also be a good anchor for the denominator. LeDuc said this discussion will continue during the Working Group’s next meeting.

### 5. Discussed the Lunch-and-Learn Schedule

LeDuc thanked Luis Marquez (NY) and Bache for the great talk on how they use the data available in MARS and for providing invaluable advice and tips on using level 1s in their analyses. She said she heard a lot of complimentary comments on this session.

LeDuc suggested that the next lunch-and-learn follow up on the level 1 discussion with a discussion on level 2. All suggestions from the Working Group are welcome.

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

Sharepoint/Member Meetings/D CMTE/2024 Fall National Meeting/MAPWG/1021/10-MAPWG.docx

Draft: 9/26/24

Market Conduct Annual Statement Blanks (D) Working Group  
Virtual Meeting  
September 5, 2024

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Sept. 5, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Sheryl Hawley (AZ); Lori Plant (AR); Paul Walker (FL); Paula Shamburger (GA); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Raymond Guzman (MD); Jeff Hayden and Danielle Torres (MI); Julie Hesser (MO); Guy Self (OH); Rachel Moore (SC); Tony Dorschner (SD); Shelli Isiminger (TN); Laura Klanian (VA); John Kelcher and John Haworth (WA); and Letha Tate (WV).

1. Adopted its July 11 Minutes

The Working Group met July 11 and took the following action: 1) reviewed a recommendation from the other health/short-term, limited-duration (STLD) subject matter expert (SME) group to remove duplicate data element No. 51 from the other health Market Conduct Annual Statement (MCAS); 2) reviewed the draft frequently asked questions (FAQ) and definitions related to artificial intelligence (AI) and machine learning (ML) proposed by the accelerated underwriting (AU) SME group; 3) reviewed the draft definitions for partial payments and cancellations proposed by the pet insurance SME group; 4) discussed a review of MCAS other health interrogatory question No. 5; and 5) discussed the review of existing MCAS lines of business.

Dorschner made a motion, seconded by Isiminger, to adopt the Working Group's July 11 minutes (*see NAIC Proceedings – Summer 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Three*). The motion passed unanimously.

2. Discussed the Removal of Duplicate Data Element No. 51 from the Other Health MCAS

Rebholz explained that data element No. 51 was the number of new policy certificates denied during the period. Data element No. 90 was the number of individual applications/enrollments denied during the period for any reason; thus, data elements No. 51 and No. 90 are duplicates. This issue was brought before the Working Group in April, after which the other health SME group reviewed the duplicates and brought back a recommendation to remove data element No. 51. This recommendation was discussed during the Working Group's July 11 meeting and exposed for a twenty-two day comment period that ended August 2. One comment was received.

Rebholz stated if the removal of data element No. 51 is approved, the change will not go into effect until the 2025 data year.

Haworth made a motion, seconded by Isiminger, to remove data element No. 51 from the Other Health MCAS. The motion passed unanimously.

3. Discussed the Draft FAQ and Definitions Related to AI and ML

Rebholz explained the draft FAQ was exposed during the Working Group's July 11 meeting for a twenty-two day comment period that ended August 2. No comments were received. No requests were made to read the draft FAQ word for word, as it was provided as an attachment.

Kelcher made a motion, seconded by Klanian, to accept the draft FAQ. The motion passed unanimously.

Rebholz moved to the draft definitions related to AI and ML.

Hayden stated that throughout the other definitions, there were references to the *Model Bulletin on the Use of Algorithms, Predictive Models, and Artificial Intelligence Systems by Insurers* (AI Model Bulletin). The AI Model Bulletin included a definition for ML as well. Hayden asked if it was considered for inclusion in the definitions. Rebholz replied that in some cases, the Working Group decided that a different resource had a better definition for the purpose of MCAS reporting.

Hearing no other comments, Rebholz stated that if approved, the draft definitions can immediately be added to the life MCAS data call definitions because they add valuable information and do not change the original intent. Rebholz added that a note showing the Working Group's approval date will be included.

Hayden made a motion, seconded by Haworth, to approve the draft definitions related to AI and ML. The motion passed unanimously.

#### 4. Discussed the Draft Definitions for Partial Payments and Cancellations for the Pet Insurance MCAS

Rebholz stated the draft definitions for partial payments and cancellations were exposed during the Working Group's July 11 meeting. No comments were received.

Kelcher explained that there are no good definitions for partial payments and cancellations. The SME group worked through what those definitions should be and worked with industry and state insurance regulators to clarify what partial payments and cancellations look like for reporting purposes.

Rebholz stated that if the draft pet definitions are approved, they can immediately be added to the pet MCAS data call and definitions because they add valuable information to those reporting the data and do not change the original intent. When adding to the document, a note showing the date of approval by the Working Group will be included.

Kelcher made a motion, seconded by Moore, to accept the draft pet definitions. The motion passed unanimously.

#### 5. Discussed MCAS Other Health Interrogatory Question No. 5 Next Steps and Additional Items Related to Comments Received

Rebholz stated that during the Working Group's July 11 meeting, it discussed reporting difficulties experienced regarding other health interrogatory question No. 5. The issues that have been seen are within the MCAS submission application. The limit for the interrogatory response is 4000 characters, which companies routinely exceed. Companies are also saying that providing information takes a lot of work, and they are wondering about the usefulness of that information for state insurance regulators.

Rebholz said that during that meeting, state insurance regulators were asked to think about how they might use the information from this interrogatory and requested comments. Cheryl Parker (FL) suggested amending interrogatory No. 5 to request a list of the states in which this line of business is written. She indicated that Florida would likely not need a list of phone numbers for policies written in every state and that the state would be able to obtain that information directly from other state regulators if that was needed. Tate suggested that rather than asking the company to list the states where other health products are filed, the interrogatory could ask if they file the product in more than five states. A "yes" answer would allow individual jurisdictions to follow up with any other questions. Tate further suggested increasing the 4000-character limit.

Rebholz stated that during the Summer National Meeting, Karen Alvarado (Crum & Forster) provided some detail about concerns that industry members have been experiencing with some of the questions and the definitions that would impact the validity of the data state insurance regulators receive. Rebholz suggested reconvening the other health SME group to further discuss the handling of interrogatory No. 5 and the concerns Alvarado itemized in any other area the SME group may think would need refining.

Rebholz stated that Mary Kay Rodriguez (WI) said she would head the SME group for other health discussions.

6. Received an Update on the Formation of an SME Group to Review the PPA MCAS Blank

Rebholz reminded Working Group members that it was decided to reopen old blanks, starting with the oldest first, the private passenger auto (PPA) blank, to consider any updates that might be necessary given how much time has passed since that blank was originally developed. The PPA SME group has not yet met. Rebholz asked that anyone interested in joining contact Hal Marsh (NAIC).

Rebholz asked the Working Group to keep in mind that best practices have been added to the updated MCAS data element revision process document. One of those was that a minimum of five Working Group jurisdictions would volunteer.

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/MCAS 9\_5 MINUTES.docx

Draft: 11/11/24

Market Conduct Examination Guidelines (D) Working Group  
Virtual Meeting  
Nov. 7, 2024

The Market Conduct Examination Guidelines (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Nov. 7, 2024. The following Working Group members participated: Matthew Tarpley, Chair, Monica Lopez and Thomas Morgan (TX); Brett Bache, Vice Chair, and Brian Werbeloff (RI); Chris Erwin, Teri Ann Mecca, and Lori Plant (AR); Tolanda Coker and Katherine Jessen (AZ); Nick Gill (CT); Tina Ching, Pratima Lele, Sudi Tasissa, and Dolly Turner (DC); Simone Edmonson, Paula Shamburger, and Tia Taylor (GA); Daniel Mathis and Paula Wallin (IA); Chris Heisler (IL); Amy Bonito Airic Boyce, Jeff Hayden, Joe Keith, and Danielle Torres (MI); Jo LeDuc and Win Nickens (MO); Tracy Biehn and Teresa Knowles (NC); Ralph Boeckman (NJ); Sylvia Lawson (NY); Rodney Beetch (OH); Landon Hubbard, Shelly Scott, and Zach Palank (OK); Cassie Soucy (OR); Paul Towsen (PA); Andrea Baytop, Melissa Gerachis, and Bryan Wachter (VA); Isabelle Turpin Keiser and Marcia Violette (VT); and Monica Hale, Lori Luder, Mark Prodoehl, Rebecca Rebholz, Mary Kay Rodriguez, and Jody Ullman (WI).

1. Adopted AG 49-A-Related Revisions to Chapter 23—Conducting the Life and Annuity Examination of the Market Regulation Handbook

Tarpley said he developed redline revisions to Chapter 23—Conducting the Life and Annuity Examination of the *Market Regulation Handbook* (Handbook) to reflect the March 2023 adopted revisions made 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). Tarpley said the changes he made will update the chapter to correspond with AG 49-A. A redlined exposure draft of Chapter 23 was circulated for a 30-day comment period on Oct. 4. No comments were received on the draft during the comment period, which ended Nov. 3, 2024.

Tarpley outlined the changes he made to the chapter, which occur in: 1) Operations/Management Examination Standard 1; 2) Subsection 2. Techniques of Section C. Marketing and Sales; 3) Marketing and Sales Examination Standards 1, 4, and 14; and 4) the Supplemental Checklist for Marketing and Sales Examination Standard 4.

Bache made a motion, seconded by Rebholz, to adopt the AG 49-A-related revisions to Chapter 23—Conducting the Life and Annuity Examination of the Handbook. The motion passed unanimously.

2. Discussed its 2024 Work

Tarpley said 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 standardized data requests (SDRs). The SMEs are developing examiner guidance based on the adopted *Pet Insurance Model Act* (#633). The pet insurance SMEs began their drafting meetings on May 6 and has had eight drafting meetings to date. The pet insurance SMEs will continue to meet in December and in January and February 2025, 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, Ellen Wilkins (NH), Bache, and Tarpley; 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 in the spring of 2025.



Bache said he, Tarpley, and Wallace have also been coordinating with state insurance regulator SMEs who volunteered 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 began their drafting meetings the first week of June and have had five drafting meetings to date. They will continue to meet in December and in January and February 2025, to finalize revisions to the travel chapter. The SMEs working on the project are Joshua Guillory (LA), Robert Barnes (LA), Teresa Kroll (MO), Biehn, Bache, and Tarpley. Bache said the SMEs expect to provide the Working Group with an exposure draft of the travel insurance chapter by the first Working Group meeting of 2025, which, like the pet insurance chapter and SDRs, will be subject to the Working Group’s adoption process (exposure, comment period or periods, review/discussion at Working Group meetings, and, ultimately, adoption).

Tarpley said that during the Working Group’s July 30 and May 22 meetings, Wallace had described NAIC Connect, a regulator-only member portal for state insurance regulators. NAIC Connect was launched in 2023, and it functions as a resource for the NAIC membership and as a platform where regulators can collaborate. All NAIC committees, task forces, and working groups will have a page on NAIC Connect. Tarpley said that there are already several NAIC groups that regulators can join on NAIC Connect, and more groups are continuously being added to the platform.

Tarpley announced that a new web page for the Working Group was launched on NAIC Connect on Oct. 29. This Working Group is the first group under the Market Regulation and Consumer Affairs (D) Committee to have a page on NAIC Connect; other Committee working groups will follow. Tarpley encouraged all market regulators to join the Working Group on NAIC Connect.

Wallace is the facilitator for this Working Group’s page on Connect, and she is performing housekeeping items to align the page with NAIC guidelines. Wallace has added a link to the 2024 edition of the *Market Regulation Handbook* to the page, the Working Group’s charges are listed, and there is a section on events where all upcoming Webex meetings are shown. Tarpley said that a welcome message will be sent to those who have joined the Working Group on Connect, after Wallace puts finishing touches on the Working Group’s page.

Tarpley said he and Bache see the development of this Working Group’s space on NAIC Connect as a great opportunity for fulfilling this Working Group’s charge to develop uniform market conduct procedural guidance in a shared regulator-only collaborative space where state insurance regulators can share tools, such as exam call letter templates, report templates and other helpful market regulation tools can be shared. Tarpley said starting in 2025, the Working Group will begin a discussion of how to align the Working Group’s page in NAIC Connect with its charges, as well as how to best build out the page and organize the content on the page. Tarpley said that he would like to begin hearing from regulators about what they want to see there, and any ideas on making it useful for market regulators are welcome.

Tarpley said he asked Wallace to inquire with NAIC internal staff about NAIC best practices regarding how to develop content for the page; since it is regulator-only, Tarpley contemplates that the Working Group would hold regulator-only discussions about this issue starting in 2025.

Tarpley said he and Bache also view the NAIC Connect page as an opportunity to address the Working Group’s charge to coordinate with the Innovation, Cybersecurity, and Technology (H) Committee in the development of market conduct examiner guidance for the oversight of regulated entities’ use of artificial intelligence (AI).

Tarpley said the Working Group received a referral from the Accelerated Underwriting (A) Working Group regarding a Regulatory Guidance document it adopted on Aug. 6 and that the Life Insurance and Annuities (A) Committee subsequently adopted on Aug. 14 at the Summer National Meeting. The adopted Regulatory Guidance document provides a framework for regulators to reference when evaluating life insurers' use of accelerated underwriting programs. The Regulatory Guidance document is divided into three areas of focus: 1) regulatory considerations; 2) strategies for review; and 3) requests for information. Tarpley said the document is posted on the documents tab of the Life Insurance and Annuities (A) Committee web page.

Tarpley said the Accelerated Underwriting (A) Working Group realizes that the Market Conduct Examination Guidelines (D) Working Group's membership has the market conduct expertise and creates content for incorporation into the Handbook. Tarpley said the Accelerated Underwriting (A) Working Group 2024 chairs have stated their intent and commitment that regulator volunteers from their Working Group will join the Market Conduct Examination Guidelines (D) Working Group's efforts to draft—in regulator-only SME drafting meetings—market conduct guidance based upon the Accelerated Underwriting (A) Working Group's adopted Regulatory Guidance document.

Tarpley asked regulators who are interested in being involved in a SME drafting group to draft accelerated underwriting market examiner guidance in 2025 to email him or Wallace. In early 2025, he and Wallace will reach out again to the Accelerated Underwriting (A) Working Group's 2024 membership and to this Working Group's 2025 membership to start the process of forming a regulator-only SME drafting group. Tarpley said there may be overlap between the two groups.

### 3. Discussed Other Matters

Tarpley thanked the Working Group for their involvement and the state insurance regulator SMEs for their work in 2024. Tarpley said a notice of the Working Group's next meeting, which will occur early in 2025, 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: 10/1/24

Market Regulation Certification (D) Working Group  
Virtual Meeting  
September 23, 2024

The Market Regulation Certification (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Sept. 23, 2024. The following Working Group members participated: John Haworth, Chair (WA); Bryan Stevens, Vice Chair (WY); Chelsy Maller (AK); Teri Ann Mecca (AR); Daniel Mathis (IA); Mary Lou Moran (MA); Mary Kwei (MD); Jo LeDuc (MO); Tracy Biehn (NC); Gregory Arce (NH); Erin Porter and Ralph Boeckman (NJ); Don Layson (OH); Zach Palank (OK); Colette Hittner (OR); Joseph Handline (PA); Rachel Moore (SC); Andrea Baytop (VA); Isabelle Turpin Keiser and Karla Nussl (VT); and Theresa Miller (WV).

1. Discussed Assistance to Jurisdictions and Peer Review

Haworth said the implementation plan for the *Voluntary Market Regulation Certification Program* addresses peer reviews in relation to self-certification, though it applies to both self-certifications and full certifications. He said the implementation 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 that in June, the Working Group discussed several ideas for implementing a peer review program, including NAIC zone-specific peer review groups. The Working Group also considered that if the peer review groups were by zone, they would have to collaborate with each other so the certification program remains consistent nationally. Haworth said it was also suggested that the peer review groups have a variety of experts from both small and large states with different areas of expertise.

LeDuc said she was concerned that having zone-based peer review groups would result in sub-standards based on zone. She said the standards should all be national. She said it could create another layer in the certification program to move from the zone to the national. LeDuc suggested that there be only one peer review group consisting of members from each zone, thus allowing for the recognition of zone-specific concerns while maintaining the certification program as a national program. Haworth agreed and asked if it was even possible to find enough regulators in each zone to have a peer review group in each one. Stevens agreed and said the zones might begin to splinter if each had its own peer review group. He said he agreed that a notional peer review group should have representation from each zone. Haworth added that the peer review group should also have representatives from large and small states.

2. Discussed Using the Scoring Matrix for Self-Certification

Haworth said the Working Group received some requests to make the scoring matrix more user-friendly. He said that Stevens changed the scoring matrix to make it more streamlined. This version was used for the Summer National Meeting exercises that the Working Group did together.

Stevens said he created a format that is quick for marking whether a jurisdiction met or did not meet each of the checklist questions; however, it does not allow commenting on each answer or responding to checklist questions that require more than a yes or no answer. He said he is working on a form that has fillable response fields for inputting additional, necessary information. Nussl said the program checklist provides the details for each

question. Stevens agreed and said what he was designing was just the questions with fillable data boxes so the self-certification could be completed online and with more depth.

Haworth said the modified scoresheets will be posted to the Market Regulation and Consumer Affairs (D) Committee's Connect page when they are ready.

### 3. Discussed the Certification Session at the NAIC Insurance Summit

Haworth said there was a discussion on the concerns many jurisdictions have with staffing, including difficulties in hiring and training new individuals. Stevens said there was discussion about the qualifications that examiners, chief examiners, contractors, and examiners-in-charge should have. He said there will be consideration of a change to the checklist's language so that it does not ask whether members of exam teams have specific designations but rather whether there is a formal training process in place and what that process looks like. He said the response could be an internal training program, use of NAIC courses, Insurance Regulatory Examiners Society (IRES) courses such as the Market Conduct Management (MCM) designation program, or a requirement for chief examiners to have a Juris Doctor (JD). He said the goal is to have more options since some states cannot force employees to get a designation. Haworth noted that some unionized states cannot require employees to get a designation, so the certification program would like to get some information from those states regarding how they ensure their examination teams are qualified. Stevens said that there is currently a lot of turnover and jurisdictions cannot always hire someone with these designations, so they need a plan to train them.

Haworth said market analysts also need training. Haworth said he and LeDuc did some training on baseline, level 1, and level 2 analyses, but that is probably not enough. He said more ways need to be found to get this training for new hires.

Ernest Nickerson (Risk & Regulatory Consulting—RRC) asked if alternate designations not listed in the certification program, such as risk management degrees, would be considered. Haworth said he thinks they should be. He said it is up to the states, but some individuals may have many years of experience without designations. Stevens said the Working Group is now trying to just get the program off the ground and would like to see what the initial self-certifications look like. He said the program is not static and will evolve.

### 4. Discussed Certification Program Revisions

Haworth said that lastly, the Working Group was to discuss any proposed certification program revisions. This is a standing agenda item for Working Group meetings, it will allow for discussion of issues or recommendations required by the implementation plan.

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

SharePoint/NAIC Support Staff Hub/Member Meetings/D Cmte/2024 Fall National Meeting/MRCWG/0923/09 MRCWG

Draft: 11/12/2024

Speed to Market (D) Working Group  
E-Vote  
Nov. 8, 2024

The Speed to Market (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee conducted an e-vote that concluded Nov. 7, 2024. The following Working Group members participated: Maureen Motter, Vice Chair (OH); Sian Ng-Ashcraft (AK); Jimmy Gunn (AL); Jimmy Harris (AR); Julie Rachford (IL); Craig VanAalst (KS); Tammy Lohmann (MN); Ted Hamby (NC); LuAnne J. King (NH); Kurt Cagle (OK); Tanji J. Northrup (UT); Lichiou Lee (WA); Allan L. McVey (WV); and Lela Ladd (WY).

1. Adopted its July 30 Minutes

The Working Group considered the adoption of its July 30 minutes (*see NAIC Proceedings – Summer 2024, Market Regulation and Consumer Affairs (D) Committee, Attachment Six*). The motion passed unanimously.

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

SharePoint/NAIC Support Staff Hub/Committees/D CMTE/2024 Fall/S2M WG/E-Vote Minutes 1031