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October 24, 2008

*Sent Via E-Mail to Tim Mullen*

Honorable John Morrison  
Commissioner of Insurance, State of Montana  
Chair, Market Regulation & Consumer Affairs (D) Committee  
National Association of Insurance Commissioners  
2301 McGee Street, Suite 800  
Kansas City, MO 64108-2662

Re: *Market Regulation Accreditation Program Draft (August 25, 2008)*

Dear Commissioner Morrison:

The National Association of Mutual Insurance Companies (NAMIC) and its more than 1,400 member companies appreciate the opportunity to provide comments on the August 25 draft of the *Market Regulation Accreditation Program*. We commend you and the committee for your efforts in working to develop a program for modernization of market regulation processes and for uniform standards for those processes.

The program outlined in the current draft has potential for moving toward the NAIC's and committee's goals but NAMIC members believe that questions and issues remain.

Implications of Accreditation for Insurers

While the accreditation program essentially includes a set of standards to be met by insurance regulators and insurance departments, NAMIC wonders just what implementation of the program will mean for insurance companies.

Under the financial accreditation program, if the domestic regulator is not accredited, regulators in other states do not defer to findings of that domestic regulator on financial condition. That situation can result in additional examination activity. Will the same be the case for market regulation accreditation? Issues of domestic deference and the impact of accreditation and non-accreditation do not appear to be addressed in the current draft. Those issues are important to NAMIC members and we believe the program will be weaker if domestic deference is not provided for.

#### Evaluation of the Accreditation Program

The current draft spells out the rationale for the proposal along with the specifics of the accreditation requirements. However, the draft does not provide for when, and how, the accreditation program itself will be monitored, reviewed, evaluated and revised. The market regulation arena has changed significantly over the past 10 years and it is likely that change will continue. A program such as the one contemplated similarly should be subject to change and improvement. Specific provision in the program for review and evaluation of the program, how it's working and what's not working, and for revisions when necessary, could help assure that the program will remain relevant and effective.

#### Standards for Staff and Department Resources

While Category V of the standards – Oversight of Contractors – includes procedures for selection and oversight of contract examiners and analysts, nowhere in the program are there standards dealing with insurance department staff and other resources. Unlike financial regulation accreditation, which includes several provisions for “sufficient qualified staff and resources,” the current draft includes no mention of those elements. Similarly, the financial accreditation program includes a section on organizational and personnel practices that includes professional development, minimum educational and experience requirements and retention of personnel.

There seems to be considerable variation among the states as to resources dedicated to market regulation and staff available to perform market regulation functions. If there are no standards or guidelines in place that require adequate staffing and resources as part of the accreditation process, one wonders how the various other standards can ever be met.

#### Data Collection and Reporting – Standard 6

NAMIC wonders why, in subpart B, departments of insurance are required to submit a minimum of one SAD data transaction each quarter. While it seems unlikely that any state would not have at least one transaction to report to the NAIC, it also seems possible that such could be the case. Why require a minimum number of submissions for transactions do not appear to be within the control of the insurance department?

#### Market Analysis – Standard 1

The requirement for Market Conduct Annual Statement (MCAS) data be considered in the market analysis process appears to be premature. The MCAS program is currently in a multi-year transition period and not all jurisdictions require submission of the MCAS. It would seem more prudent to defer a standard for use of MCAS data until such time when the transition period has ended and the issues relating to MCAS data submission, collection and analysis have been finalized.

Honorable John Morrison  
October 24, 2008  
Page 3

Treatment of Confidential Information

Category VI is the standard addressing how the insurance departments deal with confidential information. The standard requires that the department have the authority to receive and share confidential and privileged information with various regulatory and law enforcement agencies and with the NAIC, so long as the recipient agrees to maintain the confidentiality of the information. NAMIC suggests that this standard be revised to require sharing of information by the insurance department so long as the recipient agrees to maintain the confidentiality *and* so long as the recipient has the legal authority to maintain the information as confidential. An entity or organization may well agree to maintain information as confidential but, absent the legal authority to keep the information confidential, the entity or organization may be compelled by a court to release such information. The ability of maintain confidentiality of data is always an important consideration when insurance regulators are expected to share sensitive data.

Again, we appreciate the opportunity to review and provide comments on the current draft of the *Market Regulation Accreditation Program*. We believe the draft represents a good start but that some additions and fine tuning remain to be done.

Please contact me by telephone at 317-876-4270 or by e-mail at [mbrown@namic.org](mailto:mbrown@namic.org) if you have any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Marsha Brown".

Marsha Brown  
Regulatory Affairs Counsel