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**WISCONSIN 10/30/08 REVISIONS TO
MARKET REGULATION ACCREDITATION PROGRAM
DRAFT OF AUGUST 25, 2008**

OBJECTIVE

The objective of the proposed Market Regulation Accreditation Program is to provide a process whereby state regulation of the market conduct of regulated entities in the insurance marketplace can be objectively monitored and enhanced.

NAIC PRIORITY AND STATE ACTIVITY

The NAIC Modernization Plan, adopted in 2003, established the following principles and goals for Market Regulation. “. . .to assess the quality of every insurer’s conduct in the marketplace, uniformity, and interstate collaboration. . .the goal of the market regulatory enhancements is to create a common set of standards for a uniform market regulatory oversight program that will include all states.”

In 2004, the NAIC recognized that state departments of insurance need uniform standards and solutions in order to effectively and efficiently address market regulatory issues. Core competencies were created to fulfill that need. Building upon the core competency standards, the accreditation standards will strengthen the ability of states to uniformly address regulatory problems, to ensure compliance by regulated entities with state statutes, rules and regulations and, ultimately, to protect insurance consumers. Additionally, increased accuracy and completeness of data submissions to NAIC databases ensures the quality of data used by insurance departments in the market regulatory process.

An NAIC survey was conducted in 2006 asking state departments of insurance to self-certify whether they comply with the core competencies adopted by the Market Regulation and Consumer Affairs (D) Committee at the 2005 NAIC Winter National Meeting. A total of 49 out of 51 state departments of insurance responded and 29 reported that they currently either met the general requirements of the adopted core competency standards or would meet them by the end of 2007.

The results of the above-mentioned survey regarding states’ compliance with core competencies would suggest that state departments of insurance have already established policies and procedures which allow them to comply with the majority of the core competency standards. Recognizing these efforts, the accreditation standards set forth in this document build upon the core competencies.

THE ACCREDITATION STANDARDS

The accreditation standards are criteria that each state department of insurance shall meet in the essential areas of market regulation. The accreditation standards are designed to bring uniformity to states’ performance of essential market regulatory functions, promote collaboration of market analysis, and continuum actions and provide for coordination concerning regulatory issues involving multiple jurisdictions. The following is a brief description of the 6 accreditation categories.

Category I - Data Collection & Reporting

All states shall fully participate in the NAIC’s Marking Information Systems. This data consists of closed consumer complaints in the Complaints Database System (CDS), market conduct and/or combined examinations in the Examination Tracking System (ETS), Level 1 and Level 2 Analysis reviews in the Market Analysis Review System (MARS), regulatory initiatives in the Market Initiative Tracking System (MITS), adjudicated regulatory actions in the Regulatory Information Retrieval System (RIRS) and special activities in the Special Activities Database (SAD).

Category II – Market Analysis

The Department of Insurance shall gather information from data currently available to the Department of Insurance, as well as surveys and required reporting requirements, information collected by the NAIC and a variety of other sources in both the public and private sectors, and information from within and outside the insurance industry. Data gathered by the Department of Insurance shall be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review regulated entities or practices that deviate significantly from the norm or that may pose potential harm to insurance consumers. The Market Analysis Chief (MAC) is the principal liaison for market analysis issues. The MAC is responsible for

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all market analysis-related communications with other work units within the Department of Insurance. The Department of Insurance shall have an appropriate staff member assigned as the MAC to ensure an effective market analysis program.

Category III – Market Conduct Examinations

The Department of Insurance shall have standards in place to determine when a market conduct examination is called. The Department of Insurance shall adhere to the procedural guidelines in the Market Conduct Uniform Examination Outline Section of the Scheduling, Coordinating and Communicating chapter of the *Market Regulation Handbook*.

Category IV – Interstate Collaboration

The Collaborative Action Designee (CAD) is the one contact identified by the Commissioner of each jurisdiction to have the responsibility for all communications related to interstate collaboration. The Department of Insurance shall have an appropriate staff member assigned as the CAD to ensure support and participation in multi-state collaborative actions.

Category V – Oversight of Contractors

When using contractors for market conduct examinations or market analysis, the Department of Insurance shall ensure that contractors have the education and professional experience comparable to qualified department staff and that processes and procedures are in place to oversee and monitor the work performance and related activities of the contractors.

Category VI – Treatment of Confidential Information

The Department of Insurance shall have authority to analyze, examine or investigate entities that transact the business of insurance, as well as the ability to protect consumers, keep records confidential, enforce the continuum of regulatory responses and take corrective action when necessary.

WHO PERFORMS MARKET REGULATION ACCREDITATION?

Under this proposal, a new NAIC Market Regulation Standards and Accreditation (D) Committee shall make a determination on whether a state meets the accreditation standards. The meetings in which matters of state accreditation are discussed shall be held in regulator-only session at NAIC national meetings to protect the states, regulators, and regulated entities from disclosure of confidential information. Members of the Market Regulation Standards and Accreditation Committee shall be appointed annually by the NAIC Officers through the normal NAIC committee appointment process.

HOW THE MARKET REGULATION ACCREDITATION PROGRAM WORKS

The proposed Market Regulation Accreditation Program establishes requirements under which a state insurance department may seek accreditation. Additionally, the program provides guidelines for states already accredited to maintain their accredited status. Under this proposal, a jurisdiction's accreditation or non-accreditation in the Market Regulation Accreditation Program will not impact the status of a jurisdiction's accreditation or non-accreditation under the Financial Regulation Standards and Accreditation Program.

States will have 2009 to assess their compliance with the proposed standards. An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team) would begin accreditation reviews in 2010. Each state would then be reviewed every 3 years to assess that state's ongoing compliance with the accreditation standards.

A state may also request an accreditation review at any time. States will be required to submit an annual self-evaluation to the Market Regulation Standards and Accreditation Committee. If the NAIC Review Team has found during the annual self-evaluation that a state is no longer meeting the accreditation standards, the state's accreditation may be suspended or revoked. A state insurance department may also voluntarily withdraw from the program.

The Market Regulation Standards and Accreditation Committee would consider any revocation or suspension of accreditation on a case-by-case basis. These assessments may reveal mitigating factors that warrant further inquiry or indicate, for example, that continued accreditation should be conditioned upon implementation of a satisfactory remedial plan.

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ACCREDITATION CATEGORY I - DATA COLLECTION AND REPORTING

The NAIC's Market Information Systems (MIS) Team in the Information Systems (IS) Division continues to work with Departments of Insurance to ensure the capture and analysis of frequent, current, complete and accurate Market Regulation data. This data consists of closed consumer complaints in the Complaints Database System (CDS), market conduct and/or combined examinations in the Examination Tracking System (ETS), Level 1 and Level 2 Analysis reviews in the Market Analysis Review System (MARS), regulatory initiatives in the Market Initiative Tracking System (MITS), adjudicated regulatory actions in the Regulatory Information Retrieval System (RIRS) and special activities in the Special Activities Database (SAD).

For the purposes of the proposed Market Regulation Accreditation Program, "full participation" in insurance department data reporting shall be defined as electronic submissions from state departments of insurance that are complete, timely and accurate. Insurance department data files, as referenced in the documents/areas to be reviewed, may include not only electronic files, but also hard copy files. The term "insurance department" shall include any NAIC member jurisdiction, including U.S. territories.

Standard 1 The Department of Insurance shall fully participate in the Complaints Database System (CDS).

- A. The Department of Insurance shall submit to CDS all loadable, closed consumer complaints, which were closed within the last 30 days.
- B. The Department of Insurance shall submit all CDS data transactions to the NAIC ~~with an error rate of 2% or less~~. The Department of Insurance shall submit to the NAIC any updates to corrected complaint data within ~~105~~ business days. ~~There is no core competency standard that addresses an error rate for data transactions.~~
- ~~C. The Department of Insurance shall submit all CDS data transactions to the NAIC with a usage rate of 2% or less of the complaint code "other." There is no core competency standard that addresses the use of the complaint reason code of "other"~~
- ~~D.C.~~ The Department of Insurance shall complete a data reconciliation, with NAIC staff, of Department of Insurance data files regarding closed complaints and the NAIC CDS database.
- ~~E.D.~~ If the results of the reconciliation process indicate that inaccuracies are present in Department of Insurance closed complaint data files, the Department of Insurance shall submit corrected data to the NAIC within ~~105~~ business days.
- ~~F. The Department of Insurance shall reconcile CDS data with regulated entities' complaint data. The Department of Insurance shall submit to the NAIC updates to corrected CDS data within 30 days after reconciling complaint data with data provided by regulated entities. Delete. There is no core competency standard~~

Standard 2 The Department of Insurance shall fully participate in the Examination Tracking System (ETS).

- A. The Department of Insurance shall enter a market conduct examination and/or combined examination into ETS, no later than 60 days before the expected date of the on-site exam.
- B. Exceptions to this requirement shall be allowed in the infrequent, unusual circumstance in which a Commissioner or his designee has requested that an immediate regulatory response be taken on a regulated entity, or to accommodate the schedule of the regulated entity. The Department of Insurance shall enter "no knock" examinations into ETS within 10 days of the commencement of the examination.

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- C. If a regulatory action is taken at the conclusion of the examination, the Department of Insurance shall submit a loadable RIRS record no later than 30 days after the conclusion of any regulatory action, and update, within 30 days of a status change, any information previously provided to ETS.
- D. The Department of Insurance shall either update or close an examination in ETS if it has been open for more than one year.
- E. The Department of Insurance shall complete a data reconciliation, with NAIC staff, of Department of Insurance data files regarding market conduct examinations and/or combined examinations and the NAIC ETS database.
- F. If the results of the reconciliation process indicate that inaccuracies are present in Department of Insurance examination data files, the Department of Insurance shall submit corrected data to the NAIC within 105 business days.

Standard 3 The Department of Insurance shall fully participate in the Market Analysis Review System (MARS).

- A. The Department of Insurance shall complete the minimum recommended number of Level 1 Analyses established by the NAIC's Market Analysis Priorities (D) Working Group (MAP) or its successors.

~~B. The Department of Insurance shall ensure that for every regulated entity on which a continuum action is taken, the Department of Insurance has completed a Level 1 Analysis and a Level 2 Analysis review prior to commencing the continuum action. Exceptions to this requirement shall be allowed in the infrequent, unusual circumstance in which a Commissioner has requested that an immediate regulatory response be taken on a regulated entity. There is no core competency standard that requires a Level 1 and Level 2 analysis be completed.~~

~~B.~~ The Department of Insurance shall ensure that all Level 1 Analysis and recommendations for Level 2 Analysis reviews are documented in the Market Analysis Review System (MARS).

~~D.C.~~ The Department of Insurance shall submit relevant and complete data in MARS which reasonably supports the Level 1 and Level 2 conclusions/next steps recommended by the Department of Insurance. There is no core competency standard that requires this level of detail be kept in MARS.

Standard 4 The Department of Insurance shall fully participate in the Market Initiative Tracking System (MITS).

- A. The Department of Insurance shall submit a regulatory initiative (e.g., one of the Continuum of Regulatory Responses) into MITS no later than 30 days after the onset of the initiative. There is no core competency standard that addresses this requirement.
- B. The Department of Insurance shall update, within 30 days of a status change, any information previously provided to MITS when the status of a regulatory initiative has changed.
- C. The Department of Insurance shall use MITS to link to ETS, MARS and RIRS, where applicable.
- D. The Department of Insurance shall complete a data reconciliation, with NAIC staff, of Department of Insurance data files regarding regulatory initiatives and the NAIC MITS database.
- E. If the results of the reconciliation process indicate that inaccuracies are present in Department of Insurance regulatory initiative data files, the Department of Insurance shall submit corrected data to the NAIC within 105 business days.

Standard 5 The Department of Insurance shall fully participate in the Regulatory Information Retrieval System (RIRS).

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- A. The Department of Insurance shall submit a loadable RIRS record no later than 30 days after the conclusion of any regulatory action.
- B. The Department of Insurance shall submit all RIRS data transactions to the NAIC with an error rate of 2% or less. The Department of Insurance shall submit to the NAIC updates to corrected data within 5 business days.

~~C. The Department of Insurance shall submit all RIRS data transactions to the NAIC with a usage rate of 2% or less of the regulatory action code "other." There is no core competency standard that addresses error rates or the use of codes.~~

~~D.C.~~ The Department of Insurance shall complete a data reconciliation, with NAIC staff, of Department of Insurance data files regarding adjudicated regulatory actions and the NAIC RIRS database.

~~E.D.~~ If the results of the reconciliation process indicate that inaccuracies are present in Department of Insurance adjudicated regulatory action data files, the Department of Insurance shall submit corrected data to the NAIC within ~~105~~ business days.

Standard 6 The Department of Insurance shall fully participate in the Special Activities Database (SAD).

- A. The Department of Insurance shall submit nonpublic information obtained through legitimate sources pertaining to market activities (e.g., suspicious activities, legal cases, indictments and ongoing legal actions) involving entities engaged in the business of insurance, which may be of interest to other jurisdictions.
- B. The Department of Insurance shall submit, on a quarterly basis, a minimum of one SAD data transaction to the NAIC.
- C. The Department of Insurance shall complete a data reconciliation, with NAIC staff, of Department of Insurance data files regarding regulatory monitoring of market activities and the NAIC SAD database.
- D. If the results of the reconciliation process indicate that inaccuracies are present in Department of Insurance data files regarding regulatory monitoring of market activities, the Department of Insurance shall submit corrected data to the NAIC within ~~105~~ business days.

ACCREDITATION CATEGORY II - MARKET ANALYSIS

The Department of Insurance shall gather information from data currently available to the Department of Insurance, as well as surveys and required reporting requirements, information collected by the NAIC and a variety of other sources in both the public and private sectors, and information from within and outside the insurance industry. Data gathered by the Department of Insurance shall be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review regulated entities or practices that deviate significantly from the norm or that may pose potential harm to insurance consumers.

Standard 1 The Department of Insurance shall ensure that data collected for market analysis purposes, including data collected through the Market Conduct Annual Statement (MCAS), is considered in the market analysis process.

Standard 2 The Department of Insurance shall perform, on an ongoing basis, baseline analysis whereby basic parameters are used to evaluate the insurance marketplace in order to identify regulated entities that may require more detailed and thorough analysis.

- A. On a ~~regular basis, but at least once a year, no less than quarterly basis~~, the Department of Insurance shall use currently available NAIC tools, e.g., the Market Analysis Prioritization Tool (MAPT) to conduct baseline analysis.

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- Standard 3 The Department of Insurance shall coordinate results of market analysis with internal staff and with the NAIC Market Analysis (D) Working Group (MAWG).**
- A. Market analysis staff shall report any material adverse findings in market analysis to the Commissioner or their appropriate designee for determination and implementation of appropriate regulatory action.
 - B. If the Department of Insurance has identified any material adverse findings in market analysis, the Collaborative Action Designee (CAD) and the Commissioner or their appropriate designee shall evaluate the circumstances and determine if a referral shall be made to MAWG.
 - C. The Department of Insurance shall take timely action in response to such findings or adequately demonstrate the determination that no action was required. Action shall include but not be limited to the NAIC's Continuum of Regulatory Responses. The Department of Insurance shall promptly refer any item suggesting potential solvency concerns to appropriate financial regulation staff.
 - D. Concerns with nationally significant companies shall be reported to MAWG and issues that appear to focus on a small number of states shall be brought to the attention of those states' Departments of Insurance.
- Standard 4 The Department of Insurance shall appoint a Market Analysis Chief and notify the NAIC within 10 business days if the Market Analysis Chief changes.**
- A. The MAC or the MAC's designee shall have the authority to represent the Department of Insurance in matters related to discussions regarding market analysis.
- Standard 5 The MAC shall work with the NAIC to accomplish the goal that the Department of Insurance adopt uniform market analysis standards and procedures and use its market analysis in other market regulatory functions, including market conduct and interstate collaboration.**
- Standard 6 The Department of Insurance shall have documentation of communication between the MAC and appropriate Department of Insurance staff.**
- A. The MAC shall work on a documented, frequent basis with the appropriate staff in areas including consumer services, enforcement, legal, forms and rates filing, financial, market analysis and market conduct to ensure that the MAC is notified of unusual activity that may be of interest for market analysis.
 - B. The MAC shall establish means of regular communication with the unit heads of these areas.
- Standard 7 The MAC shall communicate with other Departments of Insurance and the NAIC regarding market analysis.**
- A. The MAC, in coordination with the Department of Insurance's Collaborative Action Designee, shall be responsible for posting and responding to communications via the NAIC Market Regulation and Market Analysis Electronic Bulletin Boards.

ACCREDITATION CATEGORY III - MARKET CONDUCT EXAMINATIONS

The Department of Insurance shall have standards in place to determine when a market conduct examination is called. The Department of Insurance shall adhere to the procedural guidelines in the Market Conduct Uniform Examination Outline Section of the Scheduling, Coordinating and Communicating chapter of the *Market Regulation Handbook*.

- Standard 1 The Department of Insurance shall prioritize examinations.**

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- A. The Department of Insurance shall establish criteria for calling a market conduct examination. The Department of Insurance shall prepare a schedule of examinations and select a person responsible for developing and maintaining the examination schedule. Exceptions may be made when an examination is called as a “no-knock” examination.
- B. The Department of Insurance shall maintain the trigger or reason for the examination in the examination documents, preferably the work papers, and where appropriate, share the reason/trigger for the examination with the regulated entity.

Standard 2 The Department of Insurance shall establish a standard planning process.

- A. At the end of the planning process, the Department of Insurance shall determine the phases and/or standards of the examination that require more attention, the phases or standard that require average examination scrutiny or attention and those that require a reduced emphasis or may be waived.
- B. The Department of Insurance shall prepare an examination work plan prior to the examination. The work plan or planning memorandum shall include:
 - 1) The scope of the examination;
 - 2) The justification for the examination;
 - 3) A time and cost estimate; and
 - 4) An identification of factors that will be included in the billing.

Standard 3 The Department of Insurance shall establish documented procedures concerning the announcement of the examination to the regulated entity.

- A. The announcement of the examination shall be sent to the regulated entity as soon as possible but in no case any later than 60 days before the scheduled commencement of the on-site examination. Exceptions to this requirement shall be allowed in the infrequent, unusual circumstance in which a Commissioner has requested that an immediate regulatory response be taken on a regulated entity, or to accommodate the schedule of the regulated entity. The announcement notice shall contain the following:
 - 1) The name and address of the regulated entity(ies) being examined;
 - 2) The name and contact information of the Examiner-in-Charge;
 - 3) The date the on-site examination is expected to begin;
 - 4) The statutory authority for the examination;
 - 5) The identification of items that will be billed to the regulated entity, if any;
 - 6) A request for the regulated entity to name its examination coordinator; and
 - 7) Notice that additional information may be requested at a later date.
- B. If the examination is to be led by a contract firm, the regulated entity shall be notified.

Standard 4 The Department of Insurance shall develop a preliminary examination packet or handbook that shall be sent to the examination coordinator at least 30 days before the scheduled commencement of the on-site examination.

- A. The due date for a standardized data request, if utilized by the Department of Insurance shall be scheduled before the preliminary examination packet is received by the regulated entity. The preliminary information shall contain the following information:
 - 1) General instructions;
 - 2) The scope of the examination;
 - 3) The materials requested to perform the examination;
 - 4) Standardized data requests;
 - 5) Requirements for accommodations and supplies including modem requirements;
 - 6) Time and cost estimates;
 - 7) Travel information;

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- 8) Specific instructions regarding sampling, communications with the regulated entity and other pertinent information;
- 9) Location of on-site examination;
- 10) Security arrangements; and
- 11) Billing procedures.

Standard 5 The Department of Insurance shall adopt the standardized data requests contained in the Referenced Documents section of the *Market Regulation Handbook Web page*.

- A. If the Department of Insurance deviates from a standardized data request, it shall notify the regulated entity of the deviation and shall allow additional time for the regulated entity to provide the information.

~~B. The Department of Insurance shall notify the NAIC's Market Regulation Division of the deviations for possible inclusion in the standardized data requests. This is not currently a core competency standard.~~

Standard 6 The Department of Insurance shall provide the regulated entity with the opportunity to participate in a pre-examination conference in order to clarify expectations prior to the commencement of the examination.

- A. The Department of Insurance shall provide documentation that the availability of a pre-examination conference was provided to the regulated entity. The pre-examination conference can be conducted on-site or via telephone.

Standard 7 The Department of Insurance shall establish a system for exchanging information with the regulated entity that advises them of errors and other problems developed during the examination. The Department of Insurance shall take into consideration the timeframes contained in the Market Conduct Record Retention and Production Model Regulation or substantially similar provisions of state law.

- A. The system shall consist of "crit" sheets, summaries, or both. Any form of communication to a regulated entity concerning errors shall include the following information:
 - 1) Record numbers or other identifying factors;
 - 2) The examiners' statement of the problem or error and, if relevant, the applicable law and/or standard; and
 - 3) A request for signature and comment from the regulated entity.

Standard 8 The Department of Insurance shall establish a procedure for document handling, including the removal of original documents, where that is necessary, to a location other than the Department of Insurance.

- A. To address the issue of confidentiality, original work paper documents shall remain at the Department of Insurance, especially if the examiner is a contracted employee of the Department of Insurance.

Standard 9 The Department of Insurance shall use documented sampling guidelines as set forth in the *Market Regulation Handbook*.

- A. The sampling method used shall indicate the confidence levels, tolerable error rates and include extrapolation.
- B. All sampling methods shall avoid pre-selection; however, stratified sampling is allowed.
- C. The nature of the sampling method chosen shall be disclosed to the regulated entity that is the subject of the examination. (This section deviates from the current core competency standard)

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Standard 10 At the end of an examination, the Department of Insurance shall conduct an exit conference with the regulated entity, either on-site or via telephone.

- A. The Department of Insurance shall provide documentation that the availability of an exit conference was provided to the regulated entity. The exit conference shall provide the following:
- 1) The examination status and proposed findings;
 - 2) The report process; and
 - 3) An explanation of any post examination billing.

Standard 11 The Department of Insurance shall utilize the standardized report format found in the Writing the Examination Report chapter of the *Market Regulation Handbook*.

- A. The Department of Insurance examination report shall at a minimum include the following:
- 1) Title page;
 - 2) Table of contents;
 - 3) Salutation;
 - 4) Foreword;
 - 5) Scope;
 - 6) Executive summary;
 - 7) Results of previous examinations;
 - 8) Pertinent facts of the current examination;
 - 9) Summarization; and
 - 10) Appendices, if applicable.

Standard 12 The Department of Insurance shall utilize a standardized timeline as required by the state's statute or the NAIC Model Law on Examinations.

- A. The Department of Insurance shall deliver a draft report to the regulated entity within 60 days of completion of the examination;
- B. The Department of Insurance shall provide the regulated entity with 30 days in which to respond to the examination;
- C. The Department of Insurance shall informally resolve issues and prepare a final report within 30 days (unless there is a mutual agreement with the regulated entity to extend the deadline); and
- D. The Department of Insurance shall provide the regulated entity with a 30-day time period in which to accept the final report or request a hearing.

Standard 13 The Department of Insurance shall include the regulated entity's response in the final examination report where allowed by law.

- A. The response may be included as an appendix or in the text of the examination report. If it is not in the final report, the report shall indicate that a response is available. The regulated entity shall not be obligated to submit a response. Individuals involved in the examination shall not be named in either the report or the response except to acknowledge their involvement.

Standard 14 The Department of Insurance shall make final examination reports available as public documents where allowed by law.

- A. Where allowed by law, the Department of Insurance shall publish the final examination report on the Department of Insurance Web site; and

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- B. The Department of Insurance shall establish a documented process for releasing final examination results to the public.

Standard 15 The Department of Insurance shall be able to demonstrate an enforcement strategy, and specifically the role of market conduct activities in that effort.

- A. An effective enforcement strategy includes having a system in place to differentiate between willful actions and inadvertent ones and consider appropriate administrative resolutions whether they are financial or non-financial.
- B. The Department of Insurance shall have a documented methodology in place for determining the amounts of fines, based on a host of criteria including the size of the regulated entity, the market share, whether the problems have been corrected, and any host of mitigating or aggravating circumstances.

Standard 16 The Department of Insurance shall establish a documented process to follow-up on examination and/or investigative findings.

CATEGORY IV - INTERSTATE COLLABORATION

Interstate collaboration continues to be a priority for market regulation. Recognizing this collaboration should begin with market analysis, the NAIC formed the Market Analysis Working Group and added a Collaborative Actions chapter to the Market Regulation Handbook. In addition, each state has been requested to appoint a Collaborative Action Designee. The Collaborative Action Designee (CAD) is the one contact identified by the Commissioner of each jurisdiction to have the responsibility for all communications related to interstate collaboration. The Department of Insurance shall have an appropriate staff member assigned as the CAD to ensure support and participation in multi-state collaborative actions.

Standard 1 The Commissioner of the Department of Insurance shall appoint a Collaborative Action Designee and notify the NAIC of a new appointment within 10 business days, if the Collaborative Action Designee changes.

Standard 2 The Department of Insurance shall have documented procedures for the CAD to communicate with appropriate Department of Insurance staff regarding potential collaborative action issues and ongoing collaborative actions.

- A. The CAD shall advise the appropriate staff in areas including, but not limited to consumer services, enforcement, market analysis and market conduct of the role of the CAD and procedures to notify the CAD of compliance issues that may affect multiple jurisdictions.
- B. The CAD shall establish a method of at least quarterly communication with the unit heads of these areas to follow up on ongoing and potential collaborative actions.

Standard 3 The CAD shall participate in communication with other Departments of Insurance and in MAWG/CAD meetings and calls regarding interstate collaborative actions.

- A. The CAD, in coordination with the Department of Insurance's Market Analysis Chief, shall be responsible for posting and responding to communications via the NAIC Market Regulation and Market Analysis Electronic Bulletin Boards. Information related to the role of the Market Analysis Chief (MAC) shall be handled by the MAC, and those related to potential or active collaborative actions shall be the responsibility of the CAD.
- B. The CAD shall coordinate responses and information obtained via the Bulletin Boards with the appropriate Department of Insurance staff.
- C. The CAD shall maintain communication with appropriate staff of the domestic regulator on issues and status related to potential collaborative actions.

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- Standard 4** **The CAD shall prepare referrals to MAWG for potential collaborative actions affecting multiple jurisdictions.**
- A. The CAD shall follow the procedures of the Collaborative Actions Guide in the *Market Regulation Handbook* or the MAWG Procedures/Participation Guidelines as appropriate to determine if the matter shall be referred to MAWG.
 - B. The CAD shall use the appropriate MAWG referral form and identify the issue(s); specific companies affiliated with the issue(s) and all requested information contained on the form.
- Standard 6** **The Department of Insurance shall have appropriate procedures in place for the CAD to communicate and where authorized by the Commissioner, provide recommendations on collaborative action settlements to the Commissioner or their designee.**
- A. Transmittal of collaborative action settlement documents and the Department of Insurance's participation shall be made within the time frames established in the communication from the lead state(s) or MAWG.
- Standard 7** **The Department of Insurance shall follow the procedures in the Collaborative Actions chapter of the *Market Regulation Handbook*.**
- Standard 8** **Referrals to the Market Analysis (D) Working Group (MAWG) shall be made when appropriate and when material issues may impact other jurisdictions.**
- Standard 9** **In instances where MAWG refers an issue to the Department of Insurance, and the Department of Insurance accepts responsibility for following through with the recommendation, the Department of Insurance shall review the issue and respond within 30 days of receipt of the referral to MAWG.**
- A. If MAWG refers a matter to the Department of Insurance, the CAD shall communicate the referral to the appropriate Department of Insurance staff and respond to referrals from MAWG within the requested time frame.

CATEGORY V - OVERSIGHT OF CONTRACTORS

There are generally three types of contract examiners and analysts. Individual contractors may contract directly with insurance departments and frequently contract exclusively with one insurance department. Contractor firms may also contract exclusively with insurance departments. These firms may work for one or more insurance departments in the same or varying capacities. For instance, a firm may do examination work for Insurance Department A, analysis work for Insurance Department B, or baseline analysis and examination work for Insurance Department C. These firms agree not to accept engagements with regulated entities. Corporate contractors are firms that contract with insurance departments and accept engagements with regulated entities. Although specific staff may be dedicated to work for regulators, they work under the same corporate management as staff performing engagements with regulated entities. In addition, staff may change their roles within the firm at any time. The following competency standards apply to all three types of contract examiners.

When using contractors for market conduct examinations or market analysis, the Department of Insurance shall ensure that contractors have the education and professional experience comparable to qualified department staff and that processes and procedures are in place to oversee and monitor the work performance and related activities of the contractors.

- Standard 1** **The Department of Insurance shall have established procedures to select contractors in accordance with applicable state laws and policies.**
- A. The Department of Insurance shall utilize documented standards to determine whether a conflict of interest exists, either directly or indirectly, that would preclude the contractor's involvement with the proposed market analysis, regulatory investigation or market conduct activity.

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- B. The Department of Insurance shall utilize a written contract or Memorandum of Understanding (MOU) when using the services of a contract examiner. The contract or MOU shall include specific information regarding the following:
 - 1) scope of work and services;
 - 2) budget, hourly rates and fees;
 - 3) hours of work;
 - 4) deliverables and deadlines; and
 - 5) confidentiality and security.

Standard 2 The Department of Insurance shall establish procedures to ensure that the contract examiners comply with the standards of the *Market Regulation Handbook*.

Standard 3 The Department of Insurance shall assign Department staff the responsibility to oversee the performance of contract examiners.

- A. Department of Insurance authorized staff shall monitor or oversee the pre-examination and exit conferences and appropriate department staff shall meet regularly with the contract examiners to ensure that the examination is being conducted in accordance with pre-exam agreements. Department staff shall review the contractors' preliminary findings and draft report before it is submitted to the regulated entity.
- B. The Department of Insurance shall require activities performed by contract examiners on behalf of the Department be conducted in accordance with Department of Insurance established policies and procedures and applicable state law.
- C. Department of Insurance staff shall approve contractor billings for cost and reasonability and respond to any questions from regulated entities regarding contractor performance or billing.

Standard 4 The Department of Insurance shall establish procedures to ensure confidentiality of work papers and other data, electronic security and requirements for returning market conduct examination work papers to the Department of Insurance.

- A. To further enhance security, Departments of Insurance shall provide or require contractors to utilize dedicated computers with approved virus software and approved encryption. When possible, e-mail and needed URL shall be routed through the Department of Insurance and password protected.
- B. Contracts or other written agreements between a Department of Insurance and contract examiners shall contain language that the contract examiner shall safeguard confidential information. This includes protection of proprietary information received from the regulated entity under examination, information received from other Departments of Insurance and data residing in NAIC databases.
- C. Assuming that the contract between the insurance department and the contractor contains appropriate language regarding confidentiality of information, the NAIC may allow the contractor access to information residing at the NAIC as directed by the insurance department. The Department of Insurance shall have authorized staff verify that the contract examiner has signed a confidentiality agreement that includes access to I-SITE; determine whether and to what extent the contractor may access NAIC databases such as I-SITE and shall be responsible for notifying the NAIC of any changes regarding the contract examiners and discontinuing such access upon completion of the examination.
- D. The Department of Insurance shall establish policies and procedures in writing with the contract examiners regarding the confidentiality of work papers and other related data as well as the point at which all data and work papers are returned to the Department of Insurance upon completion of

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the examination. Laptop computers shall be sanitized after each examination and at the beginning of each examination, only loaded with software for that specific examination.

CATEGORY VI – TREATMENT OF CONFIDENTIAL INFORMATION

The Department of Insurance shall have authority to analyze, examine or investigate entities that transact the business of insurance, as well as the ability to protect consumers, keep records confidential, enforce the continuum of regulatory responses and take corrective action when necessary.

Standard 1 The Department of Insurance shall have the ability to share and receive confidential and privileged documents, materials or other information with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information.

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