MARKET REGULATION ACCREDITATION PROGRAM

SUMMARY

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 with emphasis on the core competency standards currently adopted by the NAIC.

WHAT ARE INSURANCE DEPARTMENTS ALREADY DOING?

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.

EASE OF IMPLEMENTATION OF PROPOSED MARKET REGULATION ACCREDITATION PROGRAM

The proposed Market Regulation Accreditation Program could be implemented with relatively minimal resource requirements, as the proposed Market Regulation Accreditation Program would be an adjunct to the already established and widely recognized NAIC Financial Regulation Standards and Accreditation Program.

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.

In addition, state departments of insurance which are utilizing the NAIC Market Information Systems databases to the fullest extent will be publicly recognized for their ability to leverage technology, promote uniformity and enhance multistate collaboration. The information in the Market Information Systems (MIS) Participation Report which collects data concerning the level of participation of each NAIC member jurisdiction in NAIC databases, will be made available to the general public.

WHY ACCREDITATION OF MARKET REGULATION IS IMPORTANT

In 2004, regulator members of the NAIC’s Uniformity (D) Working Group 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. The core competency standards 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.

As new initiatives in market regulation are implemented by NAIC members, new core competency standards are continually being developed. In 2008, the Uniformity (D) Working Group’s successor, the Market Regulation Handbook (D) Working Group will be developing new core competency standards and revising existing core competency standards in order to align the core competencies with the NAIC’s adopted Framework for Market Analysis.

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
Using the core competencies as a basis, the Market Regulation Accreditation Program shall provide a framework of standards for efficient, effective market regulation and ensure uniformity of market regulation among state departments of insurance.

**WHAT ARE CORE COMPETENCIES?**

The core competencies are general topics/areas for market regulatory functions. The core competencies standards are criteria that each state department of insurance shall meet in the above-mentioned essential areas of market regulatory function. The core competency 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 core competencies focus on four areas: state resources, market analysis, the continuum of regulatory options and interstate collaboration. Within each core competency area, uniform standards have been developed. As of May 2008, there are 99 standards contained in the core competencies. The NAIC’s Market Regulation Handbook (D) Working Group currently oversees the development of the core competencies. The following is a brief description of the core competencies, in terms of the proposed Market Regulation Accreditation Program:

**Resources**

Each accredited insurance department shall have adequate and enforceable market conduct statutes, rules and/or regulations, trained staff and procedures regarding the use of contract examiners in place to protect state insurance consumers from harm caused by regulated entities’ market practices, policies and/or procedures.

**Market Analysis**

Each accredited insurance department shall have adequate and effective procedures in place for data collection and regularly scheduled in-depth analysis of relevant data in order to identify regulated entities/practices which may require further analysis.

**Continuum**

Each accredited insurance department should evaluate and document problematic issues in the insurance marketplace by using the Continuum of Regulatory Responses. The Continuum of Regulatory Responses is used to guide the decision-making process when market analysis has identified an issue of regulatory concern.

**Interstate Collaboration**

Each accredited insurance department shall fully participate in all NAIC market databases, follow the collaborative action guidelines for referrals to MAWG and actively participate in multistate collaboration activities, as necessary.

**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 will provide 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.

**WHO PERFORMS MARKET REGULATION ACCREDITATION?**

Under this proposal, a new NAIC Market Regulation Standards and Accreditation (D) Committee (MRSAC) shall make a determination whether a state meets the requirements set forth in the adopted core competency standards. The meetings in which matters of state accreditation are discussed shall be held in regulator-only session at NAIC...
The proposed Market Regulation Accreditation Program will initially focus on the measurement of states’ compliance with regulatory authority and database participation-related core competency standards. The regulatory authority and database participation-related core competency standards to be assessed, and the test for compliance with each standard are outlined below.

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.

REGULATORY AUTHORITY CORE COMPETENCY STANDARDS

Competency: Resources Subsection: Regulatory Authority
Standards 1, 2 and 3

The Department of Insurance has the necessary authority to implement the continuum of regulatory options.

The Department of Insurance has the necessary authority to take corrective action when necessary.

The Department of Insurance has the ability to keep records confidential, when appropriate.

Documents/Areas To Be Reviewed

- All state-specific insurance statutes, rules and/or regulations providing the commissioner/insurance department with regulatory authority to examine, take corrective action and keep records confidential, when appropriate.

Criterion for Compliance

- The NAIC Model Law on Examinations or substantially similar provisions shall be part of state law.

Review Procedures

- Compare the provisions of state-specific insurance statutes, rules and/or regulations to all provisions included in the NAIC Model Law on Examinations to verify that the insurance department’s statutory authority to implement the continuum of regulatory options, the insurance department’s authority to take corrective action and the insurance department’s authority to keep records confidential, is adequate.

Test for Adequacy of Statutory Authority

The above-referenced criterion for compliance is considered “significant” for compliance with this core competency standard. The test for adequacy of statutory authority shall be scored on a pass/fail basis. An insurance department’s statutes, rules and/or regulations that contain all of the same provisions as the NAIC Model Law on Examinations or substantially similar provisions as all of the provisions of the NAIC Model Law on Examinations shall be deemed to have met this standard. An insurance department’s statutes, rules and/or
regulations which do not contain one or more of the provisions of the NAIC Model Law on Examinations shall be deemed to have failed this standard.

In the event that the term “substantially similar” is invoked by an insurance department, the insurance department shall be required to demonstrate that the law, regulation, administrative practice or a combination of the above enforced by a state insurance department results in market regulation that is similar in force and no less effective than the NAIC model law or regulation for that standard.

The final Accreditation report provided to the insurance department may highlight concerns, if any are noted during the review, together with recommendations for the state to consider enhancements to its laws and regulations providing for sound insurance regulation.

**Competency: Resources Subsection: Regulatory Authority**

**Standard 4**

The Department of Insurance has statutory provisions to protect insurance consumers.

**Documents/Areas To Be Reviewed**
- All state-specific insurance statutes, rules and/or regulations which contain provisions designed to protect the insurance consumer from harm caused by regulated entities’ market practices, policies and/or procedures.

**Criterion for Compliance**
- The NAIC Unfair Trade Practices Act and NAIC Unfair Claims Settlement Practices Act or substantially similar provisions shall be part of state law.

**Review Procedures**
- Compare the provisions of state-specific insurance statutes, rules and/or regulations to all provisions included in both the NAIC Unfair Trade Practices Act and Unfair Claims Settlement Practices Act to verify that the insurance department’s statutory authority to protect insurance consumers is adequate.

**Test for Adequacy of Statutory Authority**

The above-referenced criterion for compliance is considered “significant” for compliance with this core competency standard. The test for adequacy of statutory authority shall be scored on a pass/fail basis. An insurance department’s statutes, rules and/or regulations that contain all of the same provisions as both the NAIC Unfair Trade Practices Act and NAIC Unfair Claims Settlement Practices Act or substantially similar provisions as all of the provisions of both the NAIC Unfair Trade Practices Act and NAIC Unfair Claims Settlement Practices Act shall be deemed to have met this standard. An insurance department’s statutes, rules and/or regulations which do not contain one or more of the provisions of both the NAIC Unfair Trade Practices Act and NAIC Unfair Claims Settlement Practices Act shall be deemed to have failed this standard.

In the event that the term “substantially similar” is invoked by an insurance department, the insurance department shall be required to demonstrate that the law, regulation, administrative practice or a combination of the above enforced by a state insurance department results in market regulation that is similar in force and no less effective than the NAIC model law or regulation for that standard.

The final Accreditation report provided to the insurance department may highlight concerns, if any are noted during the review, together with recommendations for the state to consider enhancements to its laws and regulations providing for sound insurance regulation.
DATABASE PARTICIPATION CORE COMPETENCY STANDARDS

Competency: Market Analysis Subsection: Data Collection
Standard 1

The Department of Insurance fully participates in CDS, ETS and RIRS.

Competency: The Continuum Subsection: Market Conduct Examinations
Standards 2 and 3

The Department of Insurance shall utilize the Examination Tracking System (ETS).

Exams shall be entered into the ETS no later than 60 days before the expected date of the onsite examination.

Documents/Areas To Be Reviewed
- Insurance department’s data files regarding closed complaints, market conduct and/or combined examinations and adjudicated regulatory actions
- Current I-SITE Market Regulation Reports

Criteria for Compliance
- An insurance department shall submit to CDS all loadable, closed consumer complaints, which were closed within the last 30 days.
- An insurance department shall enter a market conduct and/or combined examination into ETS no later than 60 days before the expected date of the onsite exam.*
- An insurance department shall submit a loadable RIRS record no later than 30 days after the conclusion of any regulatory action.

Review Procedures
Using the definition of complaint adopted by the NAIC membership in 2006 as a basis, compare the insurance department’s data files pertaining to closed complaints, market conduct and/or combined examinations and adjudicated regulatory actions with current I-SITE Market Regulation Reports, to verify full participation in data reporting:

Test for Completeness
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data identified by the NAIC as belonging in CDS, ETS and RIRS has been submitted electronically to these databases.

Test for Timeliness
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted electronically under the time frames specified above.

Test for Accuracy
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted accurately.

An insurance department will be deemed to have met these core competency standards if, out of a scientifically valid sample size of insurance department data files, the average on the above three tests is at least 80%.
A percentage of less than 80% on any test could therefore be balanced by a higher percentage on another test. However, a minimum of at least 70% must be achieved on each of the above three tests, in order for the insurance department to be deemed to have met these core competency standards.

*Exceptions to the 60-day time frame are permitted, provided current documentation in the data file highlights mitigating circumstances, which balance timeliness issues or provides reasonable justification for delays due to unforeseen circumstances.

Competency: Market Analysis Subsection: Analysis
Standard 1

The Department of Insurance has completed Level 1 Analysis and meets any recommended standards established by the Market Analysis Priorities Working Group (MAP) on an ongoing basis.

Documents/Areas To Be Reviewed
- Current I-SITE Market Regulation Report
- Level 1 Analysis data submitted by an insurance department to MARS (Market Analysis Review System) in the applicable NAIC database

Criterion for Compliance
- An insurance department shall complete the minimum required number of Level 1 Analysis reviews, as determined by the Market Analysis Priorities (D) Working Group.
- An insurance department shall submit relevant and complete data which logically supports the Level 1 conclusion/next step recommended by the insurance department.

Review Procedures
Review the number of Level 1 Analyses submitted to MARS by an insurance department and review the Level 1 Analysis data submitted by the insurance department in the applicable NAIC database to verify full participation in data reporting:

Test for Timeliness
Review a current I-SITE Market Regulation Report to determine whether the insurance department has completed the minimum required number of Level 1 Analysis reviews recommended for that jurisdiction by June 30 of the year to be examined.

Test for Completeness and Accuracy
Review data submitted by the insurance department to MARS in the applicable NAIC database to determine whether the data submitted in the Level 1 Analyses is relevant, complete, and logically supports the Level 1 conclusion/next step recommended by the insurance department.

An insurance department will be deemed to have met the test for timeliness if the insurance department has completed the minimum requirements recommended by the MAP (D) Working Group.

The test for completeness and accuracy for this core competency standard will be based upon a scoring range of a scale of 0 to 5. A score of 1 = poor, 2 = needs improvement, 3 = good, 4 = very good and 5 = excellent. An insurance department will be deemed to have met the test for completeness and accuracy, if, out of scientifically valid sample size of Level 1 analyses, the insurance department has received an average score equal to at least 3.0 or “good” on each of the three major criteria for the test for completeness and accuracy: (1) relevant data; (2) complete data; and (3) the data logically supports the conclusion/next step recommended by the insurance department.
An insurance department will be deemed to have met this core competency standard if the insurance department has (1) met the test for timeliness and (2) has achieved an average score of 3.0 or greater on the test for completeness and accuracy.

**Competency: The Continuum**

**Standard 5**

*Where appropriate, the Department of Insurance inputs and updates continuum actions into the applicable NAIC regulatory databases.*

**Documents/Areas To Be Reviewed**

- Insurance department’s data files regarding continuum actions, such as desk audits, investigations, market conduct and/or combined examinations, interviews with the regulated entity, etc.
- Current I-SITE Market Regulation Reports

**Criteria for Compliance**

- An insurance department shall enter a market conduct and/or combined examination into ETS no later than 60 days before the expected date of the onsite exam.*
- An insurance department shall add a regulatory initiative (one of the Continuum of Regulatory Responses) in MITS no later than 30 days after the onset of the initiative.
- An insurance department shall update within 30 days any previous information provided to MITS when the status of a continuum action has changed.
- An insurance department shall use MITS to link to RIRS and ETS, where applicable.

**Review Procedures**

Compare the insurance department’s data files pertaining to continuum actions with current I-SITE Market Regulation Reports, to verify full participation in data reporting:

**Test for Completeness**

Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data identified by the NAIC as belonging in ETS and MITS has been submitted electronically to these databases.

**Test for Timeliness**

Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted electronically under the time frames specified above.

**Test for Accuracy**

Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted accurately.

An insurance department will be deemed to have met this core competency standard if, out of a scientifically valid sample size of insurance department data files, the average on the above three tests is at least 80%.

A percentage of less than 80% on any test could therefore be balanced by a higher percentage on another test. However, a minimum of at least 70% must be achieved on each of the above three tests, in order for the insurance department to be deemed to have met this core competency standard.

*Exceptions to the 60-day time frame are permitted, provided current documentation in the data file highlights mitigating circumstances, which balance timeliness issues or provides reasonable justification for delays due to unforeseen circumstances.*
Competency: The Continuum Subsection: Investigations
Standards 4 and 8

As soon as possible, each Department of Insurance shall enter the investigation into the appropriate NAIC database(s).

At the conclusion of any regulatory action, each Department of Insurance shall enter the appropriate information into the RIRS system.

Documents/Areas To Be Reviewed
- Insurance department’s data files regarding investigations and adjudicated regulatory actions
- Current I-SITE Market Regulation Reports

Criteria for Compliance
- An insurance department shall enter an investigation into MITS no later than 30 days after the onset of the investigation.
- If a regulatory action is taken upon completion of the investigation, an insurance department shall enter the regulatory action into RIRS no later than 30 days after the adjudication of the regulatory action and update, within 30 days of a status change, any previous information provided to MITS.
- If upon conclusion of the investigation, a market conduct and/or combined examination has been deemed necessary, an insurance department shall enter the market conduct and/or combined examination into ETS no later than 60 days before the expected date of the onsite exam, and shall update, within 30 days of a status change, any previous information provided to MITS.
- An insurance department shall enter adjudicated regulatory actions into RIRS no later than 30 days after adjudication or final action.

Review Procedures
Compare the insurance department’s data files pertaining to investigations and adjudicated regulatory actions with current I-SITE Market Regulation Reports, to ensure full participation in data reporting:

**Test for Completeness**
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data identified by the NAIC as belonging in MITS and RIRS has been submitted electronically to these databases.

**Test for Timeliness**
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted electronically under the time frames specified above.

**Test for Accuracy**
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted accurately.

An insurance department will be deemed to have met this core competency standard if, out of a scientifically valid sample size of insurance department data files, the average on the above three tests is at least 80%.

A percentage of less than 80% on any test could therefore be balanced by a higher percentage on another test. However, a minimum of at least 70% must be achieved on each of the above three tests, in order for the insurance department to be deemed to have met this core competency standard.
Competency: The Continuum Subsection: Consumer Complaints
Standard 5

Each Department of Insurance shall have a system for recording and tracking complaints in a database using a coding system to facilitate analysis and trending.

Documents/Areas To Be Reviewed
- Insurance department’s complaint tracking system
- Insurance department’s data files regarding complaints
- Current I-SITE Market Regulation Reports
- Insurance department’s complaint data verification process

Criteria for Compliance
- An insurance department shall have a complaint tracking system in place which (1) records complaints using NAIC uniform definitions, coding protocols and complaint handling and reporting standards and (2) contains sufficient data to track and trend key elements of the complaint process including date received, date resolved and the current status of the complaint.
- An insurance department shall submit to CDS all loadable, closed consumer complaints, which were closed within the last 30 days.
- An insurance department shall monitor, on a no less than quarterly basis, the accuracy of complaint data in its complaint tracking system by reconciling complaint data with data provided by regulated entities.
- An insurance department shall submit to the NAIC updates to complaint data within 30 days after reconciling complaint data with data provided by regulated entities.

Review Procedures
- Using the definition of complaint adopted by the NAIC membership in 2006 as a basis, compare the insurance department’s complaint data files with current I-SITE Market Regulation Reports, to verify full participation in data reporting.

Tests for Completeness
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data identified by the NAIC as belonging in CDS has been submitted electronically to CDS.

Review the insurance department’s complaint tracking system to verify whether the system allows for recording, tracking and trending of complaint data.

Test for Timeliness
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted electronically in the time frame specified above.

Tests for Accuracy
Reconcile data from insurance department’s data files with data in current I-SITE Market Regulation Reports to determine whether all data has been submitted accurately. If inaccuracies are found, the NAIC shall request that the insurance department provide corrected data submissions to the NAIC within 3 business days.

Review the insurance department’s complaint data verification process to determine whether the insurance department is, on a no less than quarterly basis, monitoring the accuracy of complaint data via a reconciliation process, using data provided by regulated entities. If the results of the reconciliation process indicate that inaccuracies are present in insurance
department complaint data, verify that the insurance department has a process in place to make necessary corrections to its complaint data.

Review the insurance department’s complaint data reconciliation process to determine whether the insurance department is submitting to the NAIC any applicable updates to complaint data within 3 business days after reconciling complaint data with data provided by regulated entities.

An insurance department will be deemed to have met this core competency standard if, out of a scientifically valid sample size of insurance department data files, the average on the above three tests is at least 80%.

A percentage of less than 80% on any test could therefore be balanced by a higher percentage on another test. However, a minimum of at least 70% must be achieved on each of the above three tests, in order for the insurance department to be deemed to have met this core competency standard.