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Proposal of D Committee Regarding MCAS

Comments for Meeting on April 17, 2008

- Virginia has always supported the centralized collection of MCAS data as has the MCAS working group/subgroup as long as the data was kept confidential. At the September 2007 NAIC meeting, the MCAS Subgroup provided the following action item to the Market Analysis Priorities Working Group:

The Subgroup reiterates that it is critically important to the success of the market conduct annual statement that a centralized method of data collection that preserves the confidentiality of the information be developed.

Virginia continues to support the concept of centralized collection of MCAS data. However, Virginia has several concerns about the current proposal to collect the MCAS data as part of the Financial Annual Statement.

- The states that participate in MCAS have always agreed to keep the MCAS data confidential. This proposal is contrary to that agreement. The reason that MCAS data was collected is to assist state regulators in the analysis of their markets. There is no need to make this data public in order to achieve the purposes of the collection of this data.
- There are valid reasons for keeping MCAS data confidential. Without the knowledge of the industry that regulators have, a member of the public could draw inaccurate conclusions about the claims payment practices of any given company. For example, some companies assign a new claim number for every coverage that is opened under an occurrence. Others assign one claim number to each occurrence.
- Concerns about confidentiality in the area of market analysis have led both the NAIC and NCOIL to include provisions in their model laws that specifically address this issue. In addition, Virginia, at the urging of the NAIC, recently enacted a market analysis confidentiality law. Therefore, any departure from the public policy expressed in these laws should be carefully weighed and considered.
- We are concerned that the current proposal has not been fully researched and that regulators have not had adequate time to deliberate the consequences of this proposal. For example, because the MCAS is still in the early stages of development, there will likely be data elements added in the future. It is possible that making these data elements publicly available may present issues or concerns that have not yet been considered.
- This proposal could create concerns for the E Committee because of the possible impact on the Financial Annual Statement. The main purpose of the

Financial Annual Statement is for an insurer to report its financial condition as of December 31 of the previous year. The Financial Annual Statement is the insurer's vehicle to file its statutory financial statements with supporting footnotes, interrogatories, exhibits, and schedules. The insurer's financial statements and footnotes are subject to audit pursuant to the Model Regulation Requiring Annual Audited Financial Statements. The Financial Annual Statement is the main document used by financial examiners and analysts to examine and monitor the financial condition of an insurer. To inundate this critical financial document with a deluge of raw statistical market conduct data would be counterproductive. Several years ago, the NAIC formed the Financial Reporting Working Group whose main charge was to reduce the size and volume of the Financial Annual Statement's exhibits and schedules. The industry will be undoubtedly be strongly opposed to this proposal because it will greatly increase the amount of information that must be included in the Financial Annual Statement.

- We are concerned that the states that collect the MCAS data may no longer have input in the selection of the data elements that are collected. Currently, the E Committee's Blanks Working Group is charged with the task of considering improvements and revisions to the various Annual Statement blanks to promote uniformity in reporting of financial information by insurers. As such, the Blanks Working Group is generally not composed of regulators who primarily focus on market conduct/market analysis issues and it may not be appropriate for those individuals to make the final determination on which market data elements are included in the Financial Annual Statement. Conversely, it may not be appropriate for those individuals who do focus on market conduct/market analysis issues to make the final determination on what is to be included in a document designed to provide for uniform reporting of financial information. Perhaps, one solution would be to establish a separate statement for MCAS, establish a Blanks Working Group under the D Committee, and deal with the issues involving the collection of market data under the D Committee separate from the issues surrounding the collection of financial data.
- We do not necessarily believe that a national analysis of MCAS data would provide valuable market information for each individual state or an accurate picture of a company's market behaviors because all the states' information would be blended. Even in a collaborative action effort across jurisdictional boundaries, the market practices of the company in each state should be individually identified because laws vary.