OBJECTIVES OF THE MARKET REGULATION ACCREDITATION (D) WORKING GROUP

1. Provide a process whereby state regulation of the conduct of regulated entities in the insurance marketplace can be enhanced and objectively monitored for the benefit of regulators, consumers and industry.

2. Create substantially similar standards and regulatory activities for market regulation among NAIC member jurisdictions while recognizing that deviations from these standards and activities may be necessary to meet state specific targeted objectives.

   FL  2. Utilize the NAIC Market Regulation Handbook as the basis for the application of Create substantially similar standards and regulatory activities for market regulation among NAIC member jurisdictions, while recognizing that deviations from these standards and activities may be necessary to meet state specific targeted objectives.

3. Develop a formal market regulation accreditation proposal for consideration by NAIC membership by providing recommendations for the following: 1) accreditation standards; 2) process for state implementation of standards; 3) process to measure state compliance with standards; and 4) process for future revisions to the standards.

GUIDING PRINCIPLES

1. The goals to be achieved through the Market Regulation Accreditation Program should be clearly defined.

2. The interests of regulators, consumers, and industry should be addressed so that all parties achieve benefits relating to effectiveness and efficiency.

3. The success of an objective and cost efficient Market Regulation Accreditation Program will depend, in part, upon the systematic sharing of market regulatory activities and information among NAIC member jurisdictions. A measure of success is the avoidance of duplication in the market regulatory activities within and among NAIC member jurisdictions.

4. Market Regulation Accreditation Program standards should utilize, to the extent appropriate, existing systems and processes adopted by NAIC member jurisdictions to coordinate market regulation activity wherever feasible to promote uniformity and efficiency of process and only deviate to the extent necessary to meet state specific targeted objectives.

   FL  4. Market Regulation Accreditation Program standards should utilize, to the extent appropriate, existing systems and processes adopted by NAIC member jurisdictions to coordinate market regulation activity wherever feasible to promote uniformity and efficiency of process, while recognizing that deviations from these standards and activities may be and only deviate to the extent necessary to meet state specific targeted objectives.

5. The establishment and implementation of a Market Regulation Accreditation Program will be an evolving process and will be phased-in over a defined period of time.

6. A Market Regulation Accreditation Program should provide flexibility for differences among NAIC member jurisdictions, such as the number of insurers, population, budgets, statutes and administrative codes.

7. The Market Regulation Accreditation Program should initially be a stand-alone program and not be combined or incorporated into the existing Financial Regulation Standards and Accreditation program.

   FL  7. The Market Regulation Accreditation Program should initially be a stand-alone program and not be combined or incorporated into the existing Financial Regulation Standards and Accreditation program.

GOALS OF A MARKET REGULATION ACCREDITATION PROGRAM

1. Continuously improve the effectiveness and efficiency of state insurance market regulatory activities through consistent application of the Core Competencies and Standards in the NAIC Market Regulation Handbook.

2. Strengthen the quality of market regulatory activities through promoting consistency and eliminate duplication wherever possible.
3. Continuously improve the effectiveness and efficiency of state insurance market regulatory activity through interstate collaboration and coordination.

4. Establish standards for the qualifications and competencies of state insurance market regulation professionals.

5. Identify areas where a common standard is beneficial, realistic and achievable in NAIC member jurisdictions and develop the standard accordingly. For areas where a common standard is not realistic, develop best practices to be used by all NAIC member jurisdictions.

6. Develop a core training program and additional resources for NAIC member jurisdictions in support of market regulation activities.

ACCREDITATION STANDARDS

In 2004, the NAIC recognized that state departments of insurance 1 need uniform standards to optimize the effectiveness and efficiency with which they address market regulatory issues. Core competencies were created to fulfill that need. Building upon the core competencies, accreditation standards will strengthen the ability of states to uniformly address regulatory issues; ensure compliance by regulated entities with state statutes, rules and regulations; and provide greater consumer protection. The initial accreditation standards proposed in this document are organized within 4 categories: Category I – Resources; Category II – Market Analysis; Category III – Market Conduct Examinations; Category IV – Inter-jurisdictional Collaboration.

WV - Suggest that we proceed by identifying the year each standard will be incorporated. For Example, Category I Resources Standards 4 & 5 are fairly self-explanatory and most states are in fact complying. These two standards could be considered for implementation in year one of the program. On the other hand Category II Market Analysis Standard 1 may require incremental implementation as "full participation" with respect to timeliness, accuracy, and completeness as specific metrics for meeting these may require some moderate deliberation. Furthermore some standards may require deliberation at the policymaker level (such as Category I Resources Standard 1).

WV - Suggest that some standards be referred to specific "D" Committee Working Groups or Task Force which develops best practices on the activity for its input on refining or defining the metric(s) for each standard. For example, Category II Market Analysis Standard 1 should be referred to MISTF and its working groups, Category II Market Analysis Standards 2 and 3 be referred to MAP. This process will ensure that the definitions and metrics are properly vetted by the "subject matter expert" groups. They should provide a recommendation for final consideration by the Market Regulation Accreditation Working Group.

CATEGORY I - RESOURCES

Standard 1 The Department of Insurance shall have staff sufficient to perform the continuum of regulatory options including market analysis, market conduct examinations and market conduct investigations.

Core Competency – Resources – Staff and Training

IRI - The Department of Insurance shall have staff sufficient to perform the continuum of regulatory options including market analysis, to determine whether to undertake market conduct examinations, and market conduct investigations or other regulatory options.

1 For purposes of this Market Regulation Accreditation Proposal, “state departments of insurance” include all NAIC member jurisdictions.
Standard 2  The Department of Insurance shall have authority to analyze, investigate, examine entities that transact the business of insurance and take corrective action, when necessary.

Core Competency – Resources – Regulatory Authority – Standards 1 and 2

IRI -  The Department of Insurance shall have authority to analyze, investigate, and examine entities that transact the business of insurance and, when necessary, to take corrective action, when necessary.

Standard 3  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, and law enforcement authorities and the National Association of Insurance Commissioners, its affiliates or subsidiaries, provided that the recipient has the legal authority to maintain the confidentiality and privileged status of the document, communication or other information and agrees to maintain the confidentiality and privileged status of the document, material or other information.

Core Competency – Resources – Regulatory Authority - Standard 3

IRI -  The Department of Insurance shall have the ability maintain the confidentiality and privileged status of any and all confidential and privileged documents, materials or other information in its possession, whether received from a regulated entity or from other state, federal, and international regulatory agencies, law enforcement authorities, or the National Association of Insurance Commissioners or its affiliates or subsidiaries. The Department of Insurance shall implement and comply with appropriate policies and procedures to ensure the confidentiality and privileged status of all such documents, materials, and other information, including policies and procedures for storage (physical and electronic) and destruction of such documents, materials, and information.

Standard 4  The Department of Insurance shall have a Market Analysis Chief to oversee its market analysis activities and ensure ongoing inter-jurisdictional communication regarding market analysis results and best practices. The Market Analysis Chief shall have sufficient authority to effectively enforce the use of the NAIC market information systems by Department staff and its consideration prior to any continuum actions.

Core Competency: Market Analysis – Market Analysis Chief – Standards 1-5

Standard 5  The Department of Insurance shall have a Collaborative Action Designee (CAD) who is responsible for all communications related to inter-jurisdictional and multi-jurisdictional collaboration.

Standard 6  The Department of Insurance shall establish and enforce minimum educational and experience requirements for all professional staff positions and all contractual professionals in the market regulation and market analysis area that are commensurate with the duties and responsibilities of the position. For new staff, the Department shall have requirements and policies established to ensure the appropriate educational requirements are continually pursued and accomplished within five (5) years of the employment date through job-related college courses, professional programs, and/or other training programs.

Core Competencies – Resources – Staff and Training – Standard 2; Resources – Contract Examiner – Standard 2
**CATEGORY II – MARKET ANALYSIS**

**Standard 1**  
The Department of Insurance shall fully participate\(^2\) in the Complaints Database System (CDS), the Regulatory Information Retrieval System (RIRS), Exam Tracking System (ETS), and Market Analysis Review Systems (MARS).

*Core Competency: Market Analysis – Data Collection – Standard 1*

**WV -**  
*Someone suggested in Phoenix to incorporate subsequent or equivalent systems - as ETS functionality will be converted to MATS later this year.*

**CA -**  
The working group should consider including language that will incorporate systems that may be implemented in the future and address the reporting areas (complaints, regulatory actions, exams and other market actions).

**CA -**  
*We are concerned that “fully participate” is undefined. Although the term is foot-noted to mean “electronic submissions from departments that are complete, timely, and accurate”, this definition does not make clear how departments will be measured, as the terms complete, timely, and accurate allow room for subjective interpretation (especially “timely”). We encourage the working group to structure this standard to allow for states’ existing reasonable processes for populating these data bases to qualify.*

**Standard 2**  
The Department of Insurance shall conduct analyses of regulated entities by compiling and analyzing available data elements and indicators on no less than a quarterly schedule.

*Core Competency – Market Analysis – Analysis –Standard 8*

**Joint Trade –**  
*Add “Data elements for individual insurers should be verified before use in market analysis.”*

**IRI -**  
The Department of Insurance shall conduct analyses of regulated entities by *compiling and analyzing available data elements and indicators already in the Department’s possession or otherwise available to the Department* on no less than a quarterly schedule.

**Standard 3**  
The Department of Insurance shall establish and implement procedures for regular communication between the Market Analysis Chief (MAC) and appropriate Department of Insurance staff in areas including consumer services, enforcement, legal, forms and rates, financial, market analysis and market conduct to ensure that the MAC is notified of unusual activity that may be of interest for market analysis.

*Core Competency – Market Analysis – Market Actions Chief – Standard 3*

**WV -**  
The trigger for examination is also entered into ETS (MATS in the future).

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\(^2\) For purposes of this Market Regulation Accreditation Program Proposal, “full participation” in insurance department data reporting is defined as electronic submissions from state departments of insurance that are complete, timely and accurate.
Standard 4  A state shall enter its analysis and reasons for a market conduct examination in the NAIC’s Market Analysis Review System prior to sending an examination call letter to the regulated entity subject to the examination.

CA -  Recommend deleting this standard. There is no corresponding Core Competency that ties to this standard. It seems to just be a procedural step that is duplicated through other aspects of states’ processes and database administration that are otherwise incorporated in this Proposal’s standards.

Joint Trade – Add Standard 5 - The Department of Insurance shall have processes and procedures in place to receive, attempt to resolve, and track inquiries and complaints. Department processes and procedures shall include a process for complaint reconciliation.

CATEGORY III – MARKET CONDUCT EXAMINATIONS

Standard 1  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.

Core Competency – The Continuum – Market Conduct Examinations – Standards 1-19

IRI - Standard  The commencement of market conduct examinations or other regulatory activities shall be supported by the results of Market Analysis or some other material and appropriate basis.

IRI - Standard  Prior to the commencement of an examination, the Department of Insurance shall provide the regulated entity with an estimate of the costs for which the regulated entity will be responsible in connection with the examination and market analysis review, as well as the scope and a plan for the examination, including timelines for each phase of the examination.

Standard 2  If the Department of Insurance deviates from the standardized data request contained in the Referenced Documents section of the Market Regulation Handbook Web Page, it shall notify the NAIC’s Market Regulation Department of the deviations within 60 days for possible future inclusion in the standardized data requests.

Core Competency – The Continuum – Market Conduct Examinations – Standard 8

IRI -  If the Department of Insurance may request approval from the new NAIC Market Regulation Standards and Accreditation Committee described below for a deviation deviates from the standardized data request contained in the Referenced Documents section of the Market Regulation Handbook Web Page, it shall notify the NAIC’s Market Regulation Department of the deviations within 60 days for possible future inclusion in the standardized data requests.
Standard 3  If the Department of Insurance retains a contractor for an examination, it shall have Department personnel responsible to oversee the performance of the contractor and ensure the contractor adheres to the standards of the Market Regulation Handbook. The Department shall comply with the Core Competency standards in the Market Regulation Handbook for Contract Examiners.

Core Competency – Resources – Contract Examiner – Standards 1 – 6

IRI -  If the Department of Insurance retains a contractor for an examination, it shall have Department personnel responsible to oversee the performance of employee and contract examiners to the contractor and ensure the contractor adheres to the standards of the Market Regulation Handbook. The Department shall comply with the Core Competency standards for Examiners in the Market Regulation Handbook for Contract Examiners.

Core Competency – Resources – Contract Examiner – Standards 1 – 6 [insert appropriate section reference]

CATEGORY IV – INTER-JURISDICTIONAL COLLABORATION

IRI Standard  The Department of Insurance shall conduct all examinations of regulated entities in collaboration with other Departments on a consolidated basis through the new National Coordinated Market Conduct Program (NCMCP). One or more Departments will be designated as the lead state for each regulated entity. The regulated entity’s domestic state regulator will typically be a lead state, although any other state may request to be the lead state for a particular regulated entity, either in addition to or in lieu of the domestic regulator. Any other accredited jurisdiction may choose to participate in the coordinated examination process if they desire to do so. All accredited jurisdictions would retain the authority to examine a regulated entity outside the coordinated process after review and consideration of the scope and findings of a previous state or federal examination within the previous three years if an imminent risk of consumer harm exists that cannot be addressed through the coordinated process.

IRI Standard  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, and law enforcement authorities and the National Association of Insurance Commissioners, its affiliates or subsidiaries, provided that the recipient has the legal authority to maintain the confidentiality and privileged status of the document, communication or other information and agrees to maintain the confidentiality and privileged status of the document, material or other information. Any state that decides to conduct an examination outside the NCMCP shall notify the NAIC Market Regulation and Consumer Affairs (D) Committee.

Standard 1  The Department of Insurance shall establish and implement procedures for the Collaborative Action Designee to communicate with appropriate Department of Insurance staff, in areas including, but not limited to, consumer services, enforcement, market analysis and market conduct, regarding potential collaborative action issues and ongoing collaborative actions.

Core Competency – Interstate Collaboration – Collaborative Action Designee - Standard 3

Standard 2  The Collaborative Action Designee, in coordination with the Department of Insurance MAC, shall participate in at least 50% of MAWG meetings and calls.

Standard 3  The Department of Insurance shall review and respond to MAWG referrals within 30 days of receipt.

Core Competency – Interstate Collaboration – Standard 9
WHO WILL PERFORM MARKET REGULATION ACCREDITATION

A new NAIC Market Regulation Standards and Accreditation Committee will determine whether a jurisdiction meets the accreditation standards. Members of that Committee shall be appointed annually by the NAIC Officers through the normal NAIC committee appointment process. Discussions of state accreditation matters will be held in regulator-only sessions at NAIC national meetings to protect the states, regulators, and regulated entities from disclosure of confidential information.

IRI -

A new NAIC Market Regulation Standards and Accreditation Committee will determine whether a jurisdiction meets the accreditation standards. Members of that Committee shall be appointed annually by the NAIC Officers through the normal NAIC committee appointment process. Regulated entities will have the opportunity to provide feedback and input to assist the Committee in assessing whether an accredited jurisdiction or a jurisdiction applying for accreditation meets the accreditation standards. Discussions of state accreditation matters will be held in regulator-only sessions at NAIC national meetings to protect the states, regulators, and regulated entities from disclosure of confidential information.

HOW THE MARKET REGULATION ACCREDITATION PROGRAM WILL WORK

The proposed Market Regulation Accreditation Program establishes requirements under which a state insurance department may seek and maintain accreditation. 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 or any other Accreditation program that may be adopted by the NAIC.

States will have 2016 to assess their compliance with the proposed standards. An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team) will begin accreditation reviews in 2017. Each jurisdiction would then be reviewed every 3 years to assess that jurisdiction’s ongoing compliance with the accreditation standards.

Accredited jurisdictions will be required to submit an annual self-evaluation to the Market Regulation Standards and Accreditation Committee. If the NAIC Review Team finds during the annual self-evaluation that a jurisdiction no longer meets the accreditation standards, the state’s accreditation may be suspended or revoked. The Market Regulation Standards and Accreditation Committee will consider any such action on a case-by-case basis, including an assessment of any mitigating factors that warrant further inquiry or indicate, for example, that continued accreditation should be conditioned upon implementation of a satisfactory remedial plan. A state insurance department also may voluntarily withdraw from the program.

Joint Trade - The Working Group charge is to develop a formal market regulation accreditation proposal for consideration by NAIC membership by providing recommendations for the following: 1) accreditation standards; 2) process for state implementation of standards; 3) process for measure of state compliance with standards; and 4) process for future revisions to the standards. We note the Draft, circulated for comment April 13, 2015, addresses the first three prongs of this charge, but there is no information included therein relating to a process for making future revisions to the accreditation standards. This is a process that we feel must be formalized, though perhaps not fleshed out at this time.