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**NAIC MARKET REGULATION STANDARDS  
& ACCREDITATION PROGRAM**

**MISSION STATEMENT**

The objective of the accreditation program is to provide a process whereby market regulation of insurance companies can be enhanced and adequately monitored with emphasis on the following:

- 1) Adequate market conduct laws and regulations in each accredited state designed to protect consumers.
- 2) Effective and efficient market analysis, continuum action and market conduct examination processes in each accredited state designed to protect consumers.
- 3) Appropriate organizational and personnel practices in each accredited state.

**NAIC MARKET REGULATION STANDARDS  
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**NAIC POLICY STATEMENT ON  
MARKET REGULATION STANDARDS**

**Part A: Laws and Regulations**

**Preamble**

The purpose of the Part A: Laws and Regulations Standards is to assure that an accredited state has sufficient authority to regulate the market conduct of the insurance industry in an effective manner. The Part A standards are the product of laws and regulations that are believed to be basic building blocks for sound insurance regulation. A state may demonstrate compliance with a Part A standard through a law, a regulation, an established practice which implements the general authority granted to the state or any combination of laws, regulations or practices which achieves the objective of the standard.

1. Authority to Analyze, Investigate and Examine

The Department of Insurance should have authority to analyze, investigate, and examine entities that transact the business of insurance whenever it is deemed necessary. Such authority should include complete access to the regulated entity's books and records and, if necessary, the records of any affiliated regulated entity, insurance producer, or other entity contracted with to perform any additional services. Such authority should extend not only to inspect books and records but also to examine officers, employees and insurance producers of the regulated entity under oath when deemed necessary with respect to transactions directly or indirectly related to the regulated entity under examination or review.

Measures should include:

- (a) **Market Analysis Authority:** The department should have the authority to gather information from regulated entities and other sources and to conduct market analysis on the information gathered. The NAIC Market Conduct Surveillance Model Law or substantially similar provisions should be part of state law.

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- (b) Investigation Authority: The department should have sufficient investigatory authority to conduct the continuum of regulatory responses contained in the NAIC *Market Regulation Handbook*.
- (c) Examination Authority: The Department should have authority to examine companies whenever it is deemed necessary. The NAIC Model Law on Examinations or substantially similar provisions should be part of state law.

2. Unfair Trade Practices Authority

The department should have the authority to regulate unfair trade practices in the areas of marketing and sales, underwriting and rating, policyholder service, and complaint handling. The NAIC Unfair Trade Practices Act or substantially similar provisions should be part of state law.

3. Unfair Claim Settlement Practices Authority

The department should have authority to require that insurance claims be paid in an accurate and timely manner. The NAIC Unfair Claim Settlement Practices Act or substantially similar provisions should be part of state law.

4. Producer Licensing Authority

The department should have the authority to regulate the licensing of producers, the manner in which producers conduct business, and the discipline of producers. The NAIC Producer Licensing Model Law or substantially similar provisions should be part of state law.

5. Consumer Complaint Authority

The department should have the authority to receive and investigate consumer complaints.

6. Corrective Action Authority

The department should have the authority to take legal action against regulated entities when violations of law are found. These actions include the ability to issue cease and desist orders, impose fines or forfeitures, seek restitution, and suspend or revoke licenses or certificates of authority.

7. Confidentiality of Records

The Department of Insurance should have the authority to keep records confidential, when appropriate. Such authority should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries provided that the recipients are required, under their law, to maintain its confidentiality, and also should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the NAIC provided that the NAIC demonstrates by written statement the intent to maintain its confidentiality.

**Part B: Regulatory Practices and Procedures**

**Preamble**

The purpose of Part B is to identify base-line regulatory practices and procedures required to supplement, and support enforcement of, the states' market regulation laws in order for the states to attain substantial compliance with the core standards established in Part A. Part B identifies standards that are to be applied to ensure adequate market regulation of insurers. Each state must make an appropriate allocation of its available resources to effectively address its regulatory priorities.

The accreditation program recognizes that complete standardization of practices and procedures across all states may not be practical or desirable because of the unique situations each state faces. States differ with respect to staff and technology resources that are available as well as the characteristics of the domestic industry regulated. For example, states may choose to emphasize automated analysis over manual or vice versa. Reliable results may be obtained using alternative, yet effective, market regulation oversight methodologies. The accreditation program should not emphasize form over substance in its evaluation of the states' market regulation.

1. Market Analysis

(a) Sufficient Qualified Staff and Resources

The Department should have the resources to review effectively on a periodic basis all domestic insurers and any foreign insurer that baseline analysis reveals to be an outlier.

(b) Communication of Relevant Information to/from Market Analysis Staff

The Department should provide relevant information and data received by the Department which may assist in the market analysis process to the market analysis staff and ensure that findings of the market analysis staff are communicated to the appropriate person(s).

(c) Appropriate Supervisory Review

The Department's internal market analysis process should provide for appropriate supervisory review and comment.

(d) Priority-Based Analysis

The Department's market analysis procedures should be priority-based to ensure that potential problem companies are reviewed promptly. Such a prioritization scheme should utilize appropriate factors as guidelines to assist in the consistent determination of priority designations.

(e) Appropriate Depth of Review

The Department's market analysis procedures should ensure that insurers receive an appropriate level or depth of review commensurate with their size and market position.

(f) Documented Analysis Procedures

The Department should have documented market analysis procedures and/or guidelines to provide for consistency and continuity in the process and to ensure that appropriate analysis procedures are being performed on each outlier insurer.

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(g) Reporting of Material Adverse Findings

The Department's procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

(h) Action on Material Adverse Findings

Upon the reporting of any material adverse findings from the market analysis staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

2. Intermediate Market Conduct Actions

(a) Sufficient Qualified Staff and Resources

The Department should have the resources to conduct all of the market conduct actions set forth in the continuum of regulatory responses contained in the NAIC *Market Regulation Handbook*.

(b) Appropriate Procedures

The Department should have procedures in place to determine the most appropriate market conduct action to take for the circumstances involved.

(c) Reporting of Material Adverse Findings

The Department's procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

(d) Action on Material Adverse Findings

Upon the reporting of any material adverse findings from the market conduct action, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

3. Market Conduct Examinations

(a) Sufficient Qualified Staff and Resources

The Department should have the resources to effectively examine all outliers on a periodic basis in a manner commensurate with the size and market position of each insurer.

(b) Communication of Relevant Information to/from Examination Staff

The Department should provide relevant information and data received by the Department which may assist in the examination process to the examination staff and ensure that findings of the examination staff are communicated to the appropriate person(s).

(c) Use of Specialists

The Department's examination staff should include specialists with appropriate training and/or experience or otherwise have available qualified specialists which will permit the

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Department to effectively examine any insurer. These specialists should be utilized where appropriate given the complexity of the examination or identified market conduct concerns.

(d) Appropriate Supervisory Review

The Department's procedures for examinations should provide for supervisory review of examination workpapers and reports to ensure that the examination procedures and findings are appropriate and complete and that the examination was conducted in an efficient and timely manner.

(e) Use of Appropriate Guidelines and Procedures

The Department's policies and procedures for the conduct of examinations should generally follow those set forth in the NAIC *Market Regulation Handbook*. Appropriate variations in methods and scope should be commensurate with the size and market position of the insurer.

(f) Scheduling of Examinations

In scheduling market conduct examinations, the Department should follow procedures such as those set forth in the NAIC *Market Regulation Handbook*. This system should accord priority to companies which exhibit adverse market trends or otherwise demonstrate a need for examination.

(g) Examination Reports

The Department's reports of examination should be prepared in accordance with the format adopted by the NAIC and should be sent to other states in which the insurer transacts business in a timely fashion.

(h) Reporting of Material Adverse Findings

The Department's procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

(i) Action on Material Adverse Findings

Upon the reporting of any material adverse findings from the examination staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

#### 4. Consumer Complaints

(a) Receiving and Processing Consumer Complaints

The Department of Insurance should have standards in place to receive and handle complaints and inquiries in accordance with NAIC guidelines. The Department of Insurance records complaints in a database and submits closed complaint data to the NAIC CDS on a regular basis.

(b) Action on Consumer Complaints

The Department of Insurance should have standards for investigating complaints, responding to the complainant, and referring law violations for administrative action and reporting complaint patterns and trends to the Market Analysis Chief.

5. Information Sharing and Interstate Collaboration

(a) Information Sharing

States should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries providing that the recipients are required, under their law, to maintain its confidentiality. States also should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the NAIC providing that the NAIC demonstrates by written statement the intent to maintain its confidentiality. The Department should have a documented policy to cooperate and share information with respect to companies with the regulatory officials of any state, federal agency or foreign countries and the NAIC directly and also indirectly through committees established by the NAIC which may be reviewing and coordinating regulatory oversight and activities.

(b) Interstate Collaboration

The Department should participate in interstate collaboration through:

- (i) Participation with the Market Analysis Working Group (MAWG) to include, but not be limited to, participation in calls and surveys;
- (ii) Timely entry and participation in the NAIC databases;
- (iii) Notifying the Collaborative Action Designee or Market Analysis Chief of the domestic Department of Insurance when considering one of the continuum of regulatory responses; and
- (iv) Following the collaborative actions guidelines for recommendations to MAWG.

**Part C: Organizational and Personnel Practices**

1. Professional Development

The Department should have a policy, which encourages the professional development of staff involved with market surveillance and regulation through job-related college courses, professional programs, and/or other training programs.

2. Minimum Educational and Experience Requirements

The Department should establish minimum educational and experience requirements for all professional employees and contractual staff positions in the market regulation and surveillance area which are commensurate with the duties and responsibilities of the position.

3. Retention of Personnel

The Department should have the ability to attract and retain qualified personnel for those positions involved with market surveillance and regulation.

**NAIC MARKET REGULATION STANDARDS  
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**GUIDELINES FOR COMPLIANCE WITH STANDARDS**

**Preamble**

The following guidelines have been developed to provide detailed guidance to the review teams regarding how compliance with the Part B: Regulatory Practices and Procedures Standards should be assessed. These guidelines can also assist states in preparing for the accreditation review of their Department.

**Part B: Regulatory Practices and Procedures**

1. Market Analysis

(a) Sufficient Qualified Staff and Resources

Standard: The Department should have the resources to review effectively on a periodic basis all domestic insurers and any foreign insurer that baseline analysis reveals to be an outlier.

Guidelines: Identified personnel who have the time and experience necessary to perform this function should be assigned to the analysis tasks, and the tasks should be satisfactorily completed in a timely manner.

- (1) The Department of Insurance should appoint a Market Analysis Chief and promptly notify the NAIC if the Market Analysis Chief changes. Each Department of Insurance needs a clearly identified person with whom all other Department of Insurance staff should share indicators of potential market regulation problems and who will also coordinate information sharing with other Departments of Insurance through the NAIC's MAP Working Group and oversee the Department of Insurance's market analysis.
- (2) The Department should have analysts or qualified contractual resources with appropriate experience levels to perform Level 1 and Level 2 analyses. Although not required, credentials such as Certified Insurance Examiner (CIE), Accredited Insurance Examiner (AIE), IRES MCM, NAIC APIR, NAIC PIR, NAIC SPIR, Chartered Property Casualty Underwriter (CPCU), Fellow of the Life Management Institute (FLMI), AAI, AAM, AAPA, ACP, ACS, AFSB, AIAA, AIAF, AIC, AIC, AIM, AIRC, AIS, AIT, ALCM, AMIM, APA, API, ARA, ARC, ARe, ARM, AU, ARM-P, ARP, ASLI, AU, CCP, CFE, CIC, CISR, ChFC, CLU, CRM, FFSI, INS, LIA, PCS, REBC, RHU, and SM or similar designations may demonstrate expertise in insurance.
- (3) The Department of Insurance should have sufficient resources to complete Level 1 Analysis and meet any recommended standards established by the Market Analysis Procedures Working Group (MAP) on an on-going basis.
- (4) **Ohio suggestion** – The Department of Insurance should have the resources to review compliance systems of their domestics on a periodic basis.
- (5) If the Department of Insurance elects to utilize contracts with individuals or firms to conduct market analysis activities, the Department of Insurance should ensure the

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individuals meet the minimum educational and experience requirements as outlined above and that the activity is conducted in accordance with the Department of Insurance's established policies and procedures and applicable state law.

### (b) Communication of Relevant Information to/from Market Analysis Staff

Standard: The Department should provide relevant information and data received by the Department which may assist in the market analysis process to the market analysis staff and ensure that findings of the market analysis staff are communicated to the appropriate person(s).

#### Guidelines

- (1) The Department of Insurance should establish a systematic procedure for interdivisional communication. It is essential for information to be shared and discussed between the Market Analysis Chief and other Department of Insurance staff. This should be done on a systematic basis, including at a minimum a quarterly questionnaire requesting other work areas within the Department of Insurance to share unusual activity that may be of interest to the Market Analysis Chief such as patterns of adverse financial data, consumer complaints, policy termination activity, insurance producer misconduct, or use of noncompliant forms or rates.
- (2) The Department of Insurance should identify core information that all staff should share with the Market Analysis Chief. In particular, all Department of Insurance staff should share any of these indicators with the Market Analysis Chief in accordance with established procedures.
  - Participation with the Market Analysis Working Group (MAWG) to include, but not be limited to, participation in calls and surveys;
  - Significant changes in the ratio of consumer complaints against the regulated entity or significant numbers of complaints in a relatively short period of time;
  - Dramatic growth (> +33%) or decline (< -10%) in one or more lines of business;
  - Significant changes in the regulated entity's book of business;
  - Rapid expansion into new states and significant premium volume in new states;
  - Significant concentrations of risk—geographically, by line of business or exposure—or significant changes in the concentrations of risk;
  - Significant changes in expense levels (such as defense costs or commissions);
  - Recent change of the state of domicile of a major writer in a group of regulated entities;
  - Recent changes in ownership or senior management;
  - A high degree of reliance on third parties, such as MGAs or TPAs, to perform regulated entity functions; or
  - Significant problems with electronic data processing systems such that the integrity of data underlying claims, underwriting and financial systems is questionable.
- (3) The Department of Insurance should develop and instruct complaint analysts in key indicators in complaint data. Complaint analysts in the Department of Insurance should share the following types of information with the Market Analysis Chief at the time the Department of Insurance receives this information:
  - Specific complaints so critical that one complaint merits reporting (e.g., antitrust);

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- Spikes in complaints against the same regulated entity on the same product/practice during a specific time interval (e.g., 10 new complaints in a week); and
  - Any of the other indicators listed above.
- (4) Annual statement State Pages and other financial indicators should be routinely shared with the Market Analysis Chief in accordance with established procedures. Every regulated entity—foreign as well as domestic—is required to file a State Page with each state in which it is licensed, to show changes in the regulated entity’s business in the state. In most Departments of Insurance, a significant amount of staff resources at that time are devoted to review and analysis of the financial statements. While such financial analysis should be primary, at some point after the Blanks are available, the Market Analysis Chief should be aware of:
- Significant increases or decreases in premium volume;
  - Significant increases in reserves without corresponding changes in direct losses paid;
  - Significant changes in loss ratio or significant deviations from market norms; and
  - Significant increases in defense costs without corresponding changes in direct losses (for liability insurers).
- (5) Analysts should comment in the analysis file with respect to significant information obtained from other units.
- (6) Evidence of communication (e.g. minutes of meetings, memos or notes to the file, printouts, etc.) when problems or concerns are identified should be included in the department’s analysis files or binders. To a lesser extent, oral verification may provide such evidence.
- (7) Market conduct information, particularly adverse findings or significant unresolved issues, obtained as a result of the market analysis procedures performed should be communicated to examiners, management and other Department staff as needed.
- (c) Appropriate Supervisory Review
- Standard: The Department’s internal market analysis process should provide for appropriate supervisory review and comment.
- Guidelines: Level 1 and Level 2 analyses should be reviewed by experienced personnel with supervisory review responsibility. Supervisory review may be conducted by the Market Analysis Chief or a senior level analyst whose job functions include such review duties.
- (1) At least one level of supervisory review should be performed on each company analysis.
  - (2) Evidence of such review should be documented in accordance with the procedures prescribed in the NAIC Market Analysis Review System.
  - (3) Supervisory review should be timely, occurring within the timeframes prescribed in the NAIC Market Analysis Review System.
- (d) Priority-Based Analysis

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Standard: The Department’s market analysis procedures should be priority-based to ensure that potential problem companies are reviewed promptly. Such a prioritization scheme should utilize appropriate factors as guidelines to assist in the consistent determination of priority designations.

### Guidelines

- (1) There should be an established baseline market analysis program on a coordinated schedule in order to identify priority companies. All Departments of Insurance should analyze the various data elements and indicators within the same general timeframe, so that if one or more of the Departments of Insurance have issues with a particular regulated entity, then they can discuss it first within the framework of the Market Actions Working Group (MAWG). Results should be compiled and reviewed on no less than a quarterly schedule.
  - (2) The Department of Insurance should identify potential problems from complaints. As a minimum, complaint ratios should be calculated annually at a regular time and the Market Analysis Chief should use information generated on regulated entities with ratios outside of the norms, along with other information about those companies available in the Department of Insurance, to determine whether any further review is necessary.
  - (3) General factors used to develop the priority system should be documented by the Department and consistently applied. The regulator should exercise reasonable judgment in the application of these factors to specific insurers.
  - (4) The Department of Insurance should conduct a Level 1 analysis of all domestic companies on an annual basis, and domestic companies with the highest priority should be analyzed first. For example, if the Department rates companies from 1 to 4, with 1 being the highest priority, companies rated as 1's should generally be analyzed prior to analyzing lower priority companies. For states with few domestics, an informal prioritization system can be considered adequate.
  - (5) Justification for priority ranking and any change to the priority ranking should be included in the analysis file. For example, if a company has historically been an outlier company receiving high priority and shows signs of improvement in the current year with the analyst rating them as low priority, a proper discussion of why the rating is appropriate should accompany such rating.
  - (6) Any change to a priority ranking should be approved by the appropriate supervisor, and evidence of that approval should be apparent.
  - (7) **Ohio suggestion** – The Department’s market analysis procedures should also be priority-based to adequately address company problems with compliance systems.
- (e) Appropriate Depth of Review

Standard: The Department’s market analysis procedures should ensure that insurers receive an appropriate level or depth of review commensurate with their size and market position.

### Guidelines

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- (1) Depth of the analysis (i.e., progression to Level 2) will depend on the national significance of the insurer and the existing or potential issues and problems found during Level 1 analysis. Those companies with the highest priority should receive the most in-depth review. For those companies with the lowest priority, a less detailed review can suffice.
- (2) **Ohio suggestion** – The quality of the company’s compliance operations should also be considered when determining the appropriate depth of the market analysis review.

### (f) Documented Analysis Procedures

Standard: The Department should have documented market analysis procedures and/or guidelines to provide for consistency and continuity in the process and to ensure that appropriate analysis procedures are being performed on each outlier insurer.

Guidelines: The Department should develop an analysis manual or otherwise document its analysis process to provide a reference guide and training tool for the analysts. The use of the NAIC *Market Regulation Handbook* or sections thereof is considered acceptable.

- (1) All Level 1 and Level 2 analysis work should be entered in the Market Analysis Review System (MARS) in accordance with NAIC guidelines.
- (2) Any supplemental worksheets and supporting materials designed to document the analysis process for the Department’s files should be properly completed as set forth by the Department’s procedures.
- (3) Procedures and worksheets should be of sufficient detail to uncover potential concerns addressing all material areas being analyzed.
- (4) Any unusual item, fluctuation from established norms, or other issue raised during the analysis of a company, should be properly addressed and documented in MARS and in the Department’s analysis file.
- (5) Any follow-up (e.g., memo to the file, letter to the company, etc.) should be properly documented. Any letter received from a company should show proper analysis by the Department, signing off and concluding that the response is adequate.
- (6) The market analysis process should include a summary discussion of the analysis findings including a general discussion of the company’s strengths and weaknesses.
- (7) Conclusions should be reached as to whether any action should be considered as a result of the analysis.

### (g) Reporting of Material Adverse Findings

Standard: The Department’s procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

Guidelines: A material adverse finding is defined as a finding made by a Department with respect to an event, trend, transaction or series of transactions, fluctuation, agreement, arrangement, operating results or violation of law, which either has, or reasonably could have, a significant negative impact on consumers.

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- (1) The Department should have a policy or procedure to require that all material adverse findings be promptly presented to the commissioner or an appropriate designee. This policy or procedure should be in written form and should be formally communicated to individuals capable of taking appropriate regulatory action via inclusion in the Department Handbook or through some other formal communication channel such as department bulletin, memo, etc. The policy or procedure should define a material adverse finding and to whom the finding should be communicated, as described in Guideline (3), and require findings to be promptly reported.
- (2) Market analysis files should contain evidence that material findings were promptly presented to the commissioner or appropriate designee.
- (3) Material adverse findings should be reported to individuals who are capable of taking appropriate regulatory action.

(h) Action on Material Adverse Findings

Standard: Upon the reporting of any material adverse findings from the market analysis staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

Guidelines: In determining compliance with this standard, the ultimate action of the regulator will be accepted as appropriate as long as the logic of the decision is clearly documented and the decision is reasonable based upon what other regulators would commonly understand to be appropriate in that scenario and given the information available at that time.

- (1) The Department should have a policy or procedure to take timely action in response to material adverse findings or adequately demonstrate and document that no action was required.
- (2) Department files should contain evidence that timely action was taken on material adverse findings or adequately demonstrate and document that no action was required.
- (3) The Department of Insurance should coordinate results with the NAIC Market Actions Working Group (MAWG). In addition to reporting plans for examinations and investigations, all noteworthy market analysis results should be recorded in NAIC systems. Concerns with nationally significant companies should be specifically noted when reporting to MAWG and issues that appear to focus on a small number of other states should be brought to the attention of those states' Departments of Insurance.

2. Intermediate Market Conduct Actions

(a) Sufficient Qualified Staff and Resources

Standard: The Department should have the resources to conduct all of the market conduct actions set forth in the continuum of regulatory responses contained in the NAIC *Market Regulation Handbook*.

Guidelines

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- (1) The Department of Insurance designates, authorizes and maintains staff responsible for reviewing market analysis findings and determining the necessary regulatory response.
- (2) If the Department of Insurance has reason to believe an entity has violated or is violating any provision of the insurance code or upon complaint by any resident of its state, the Department of Insurance should have sufficient qualified staff and resources necessary to investigate. Investigations may be conducted by the Department of Insurance's examiners or investigators. The examiners or investigators should not remove, destroy or deface any account, record, document or property of the entity under investigation. The examiner or investigator may remove such documentation upon written consent of the entity, upon administrative subpoena or other statutory authority granted the Department of Insurance, or pursuant to a court order.

(b) Appropriate Procedures

Standard: The Department should have procedures in place to determine the most appropriate market conduct action to take for the circumstances involved.

Guidelines

- (1) The Department of Insurance should consider factors including but not limited to consumer harm; scope and nature of the concern; jurisdictional boundaries of the issue; cost effectiveness for regulator and regulated entity; the regulated entity's history regarding cooperation and regulatory compliance; whether another state has addressed a similar concern with the entity and whether enforcement action is contemplated when considering the nature of regulatory response.
- (2) The Department of Insurance should have procedures for staff responsible for continuum actions to communicate with the Market Analysis Chief (MAC) to obtain analysis information and recommendations for continuum actions when warranted.
- (3) The Department of Insurance should have procedures for staff responsible for continuum actions to communicate and coordinate with the Collaborative Action Designee (CAD) in instances of multistate concern.
- (4) Where appropriate, the Department of Insurance should input and update continuum actions into the applicable NAIC regulatory databases.
- (5) The Department of Insurance should develop a pre-investigation planning process. Each Department of Insurance may prepare an investigation work plan prior to the investigation. The work plan or planning memorandum should include:
  - a. The justification for the investigation;
  - b. The scope of the investigation;
  - c. A time and cost estimate; and
  - d. Costs, which may be billed to other sources.

Where applicable, information should be gathered from internal sources, including:

- a. Annual reports;
- b. Policy and form filings;
- c. Examination reports (financial, market); and
- d. Producer licensing files and applications.

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Information should also be obtained from various NAIC databases including:

- a. RIRS (Regulatory Information Retrieval System);
- b. SAD (Special Activities Database);
- c. CDS (Complaints Database System);
- d. ETS (Examination Tracking System);
- e. SPLD (State Producer Licensing Database); and
- f. MITS (Market Initiative Tracking System).

- (6) As soon as possible, each Department of Insurance should enter the investigation into the appropriate NAIC database(s). Initially, if the entity is one with a valid NAIC company code and the subject of a civil or administrative investigation, the matter should be entered into the MITS database. Should the investigation lead to an examination of a regulated entity, the regulated entity subject to this examination should be entered into the ETS database. Additionally, if at any time the entity subject to the investigation is suspected of criminal activity or is the subject of final adjudicated actions taken by regulatory or law enforcement agencies other than a Department of Insurance, such information should be entered into the SAD database.

### (c) Reporting of Material Adverse Findings

Standard: The Department's procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

#### Guidelines

- (1) The Department of Insurance should require a written report of investigation at the conclusion of each investigation. The report of investigation should adequately summarize the underlying documentation contained in the investigative file. The investigative file documentation should include but need not be limited to:
  - a. Written notes of calls/interviews;
  - b. Written statement;
  - c. Summary and organization of relevant documents;
  - d. Preservation of original evidence (when feasible); and
  - e. Written findings and recommendations.
- (2) The Department's procedures should require that all investigative reports be submitted to the commissioner or an appropriate designee for a determination.

### (d) Action on Material Adverse Findings

Standard: Upon the reporting of any material adverse findings from the market conduct action, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

#### Guidelines

- (1) Upon conclusion of an investigation, the Department of Insurance should determine the appropriate investigative response or action, if appropriate. At the conclusion of an investigation, the Department of Insurance should be able to choose, but need not be limited to, one of the following investigative actions:
  - a. Contact the entity for response—If applicable, the examiner or investigator may request a written response from the entity as to his or her findings.

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Note: Sometimes, the entity does not know it is the subject of an investigation;

- b. Closing letter—The Department of Insurance may notify the entity that no violation was found. Note: Sometimes, the entity does not know it is the subject of an investigation;
  - c. Warning letter—If a violation was found, but mitigating circumstances indicate an isolated incident or technical violation, the Department of Insurance should notify the entity of its findings to place the entity on notice that further violations may lead to the appropriate administrative, civil and/or criminal actions; and
  - d. Choose an option from the continuum of regulatory responses.
- (2) If the investigation and/or the option chosen from the continuum of regulatory responses determines that further action is necessary to correct the deficiency and/or statutory violation, the Department of Insurance should be able to choose from, but need not be limited to, the following enforcement options.
- a. Administrative complaint—An administrative complaint may be filed against the entity or individual who is the subject of the investigation. The examiner or investigator should review the results of the investigation with legal counsel for further advice;
  - b. Cease and desist order—If the conduct uncovered is causing or is about to cause substantial harm, the Department of Insurance may issue a cease and desist order;
  - c. Settlement agreement and/or consent order—The Department of Insurance should have the authority to enter into settlement agreements and/or consent orders at any time during the investigation phase. In this settlement agreement and/or consent order, corrective action may be agreed upon by the parties;
  - d. Administrative fines or penalties and/or suspension or revocation of license(s); and/or
  - e. Post-investigation audits, corrective action plans, and/or self-audits by the entity.
- (3) At the conclusion of any regulatory action, the Department of Insurance should enter the appropriate information into the RIRS system as well as update any previous information provided to the MITS, ETS, or other NAIC databases.
- (4) The Department of Insurance should establish a process to follow-up on investigative findings.
- (5) The Department of Insurance should have the ability to keep records confidential, when appropriate. The Department of Insurance should have the statutory authority to keep an investigation and its results confidential if no regulatory action is taken. The Department of Insurance should allow for the sharing of otherwise confidential information, administrative or judicial orders, or other action with other Department of Insurance regulatory officials or with law enforcement officials of any state or agency of the federal government. The Department of Insurance should have a documented policy to cooperate and share information with other regulators, with state law enforcement officials or an agency of the federal government, and/or with NAIC, which may be reviewing and coordinating regulatory oversight and activities.

### 3. Market Conduct Examinations

#### (a) Sufficient Qualified Staff and Resources

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Standard: The Department should have the resources to effectively examine all outliers on a periodic basis in a manner commensurate with the size and market position of each insurer.

Guidelines: Identified personnel who have the time and experience necessary to perform this function should be assigned to the examination tasks, and the tasks should be satisfactorily completed in a timely manner.

- (1) The Department should have examiners or qualified contractual resources with appropriate experience levels to perform necessary tasks. Although not required, credentials such as Certified Insurance Examiner (CIE), Accredited Insurance Examiner (AIE), IRES MCM, NAIC APIR, NAIC PIR, NAIC SPIR, Chartered Property Casualty Underwriter (CPCU), Fellow of the Life Management Institute (FLMI), AAI, AAM, AAPA, ACP, ACS, AFSB, AIAA, AIAF, AIC, AIC, AIM, AIRC, AIS, AIT, ALCM, AMIM, APA, API, ARA, ARC, ARc, ARM, AU, ARM-P, ARP, ASLI, AU, CCP, CFE, CIC, CISR, ChFC, CLU, CRM, FFSI, INS, LIA, PCS, REBC, RHU, and SM or similar designations may demonstrate expertise in insurance.
- (2) The Department should have sufficient staff or qualified contractual resources to conduct comprehensive, target or limited scope exams as appropriate.
- (3) If the Department of Insurance elects to utilize contracts with individuals or firms to conduct market conduct examinations, the Department of Insurance should ensure the individuals meet the minimum educational and experience requirements as outlined above and that the activity is conducted in accordance with the Department of Insurance's established policies and procedures and applicable state law.

### (b) Communication of Relevant Information to/from Examination Staff

Standard: The Department should provide relevant information and data received by the Department which may assist in the examination process to the examination staff and ensure that findings of the examination staff are communicated to the appropriate person(s).

#### Guidelines

- (1) Procedures should be established such that information material to the market conduct examination process is communicated to the examiner-in-charge (EIC). Examples would include results of the market analysis process, significant complaints data, legal actions taken against the company, material rate and form changes, results of other market conduct examinations, significant changes in the company's agents, MGAs or reinsurance intermediaries, and regulatory actions taken by other states.
- (2) The EIC, or other appropriate examination staff member, should comment in the examination file with respect to significant information obtained from other units.
- (3) Evidence of communication (e.g. bi-weekly reports, memos or notes to the examination files, examination reports, etc.) when problems or concerns are identified, as part of the examination process should be included in the examination files. To a lesser extent, oral verification may provide such evidence.

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- (4) Market conduct information, particularly adverse findings, obtained as a result of the market conduct examination procedures performed should be communicated to the EIC, chief examiner, Department management and other Department staff as needed.

### (c) Use of Specialists

Standard: The Department's examination staff should include specialists with appropriate training and/or experience or otherwise have available qualified specialists which will permit the Department to effectively examine any insurer. These specialists should be utilized where appropriate given the complexity of the examination or identified market conduct concerns.

Guidelines: The Department should have on staff or be able to contract the requisite expertise to examine effectively any insurer. The requisite expertise should be determined by the character and nature of the types of companies to be examined. The Department should demonstrate that its use of specialists is appropriate.

### (d) Appropriate Supervisory Review

Standard: The Department's procedures for examinations should provide for supervisory review of examination workpapers and reports to ensure that the examination procedures and findings are appropriate and complete and that the examination was conducted in an efficient and timely manner.

#### Guidelines for Supervisory Review of Workpapers

- (1) All workpapers, including work performed by the EIC, should receive at least one level of supervisory review. In addition, work of specialists should be reviewed by the EIC for familiarity and understanding. The reviewer should be looking to see that the specialists' reports and, if necessary, workpapers evidence all procedures that are expected to be performed. In addition, the workpapers should be consistent with the examiner's conclusions and the examination report.
- (2) Supervisory review should be evidenced by sign off and dating by the reviewer. Supervisory sign-off and dates on every single workpaper is not required.
- (3) Supervisory review should be timely in nature.
  - Planning should be reviewed before significant fieldwork begins.
  - Supervisory review of workpapers should occur within a reasonable period after completion of the item being examined (generally 2-4 weeks).
- (4) Supervisory review should ascertain whether the form of examination workpapers is consistent with Department standards.
- (5) Supervisory review should be an in-depth and challenging review of the examiner's findings. The occurrence and sufficiency of supervisory review may be verified through discussions with department staff, including but not limited to, the EICs. The Department may demonstrate in-depth and challenging review by maintaining supervisory review notes. Regardless of whether supervisory review notes are kept however, the supervisory review shall be presumed sufficient if the examination procedures appear to be complete and no material matter remains unaddressed.

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Guidelines for Supervisory Review of Examination Reports: The examination report should be reviewed by at least one person other than the preparer. The commissioner or the commissioner's designee should approve the report prior to final issuance.

### (e) Use of Appropriate Guidelines and Procedures

Standard: The Department's policies and procedures for the conduct of examinations should generally follow those set forth in the NAIC *Market Regulation Handbook*. Appropriate variations in methods and scope should be commensurate with the size and market position of the insurer.

#### Guidelines

- (1) The Department of Insurance should comply with the guidance provided in the *Market Regulation Handbook* when scheduling, planning, calling and performing an examination.
- (2) The Department of Insurance should develop a standard planning process. Many of the items reviewed may have been used in the examination priority process and should become the basis for the pre-examination planning.
  - At the end of the planning process, the Department of Insurance should determine the phases and/or standards of the examination that require more attention, the phases or standards that require average examination scrutiny or attention and those that require a reduced emphasis or may be waived.
  - Each Department of Insurance should prepare an examination work plan prior to the examination. The work plan or planning memorandum should include:
    - a. The scope of the examination;
    - b. The justification for the examination;
    - c. A time and cost estimate; and
    - d. An identification of factors that will be included in the billing.
- (3) The Department of Insurance should develop a system to announce the examination to the selected regulated entity. The announcement of the examination should be sent to the regulated entity as soon as possible but in no case any later than 60 days before the estimated commencement of the on-site examination. Exceptions to this rule are made for examinations that are called to respond to more immediate concerns, or to accommodate the schedule of the regulated entity. The announcement notice should contain:
  - The name and address of the regulated entity(ies) being examined;
  - The name and contact information of the Examiner-in-Charge;
  - The date the on-site examination is expected to begin;
  - The statutory authority for the examination;
  - The identification of items that will be billed to the regulated entity, if any;
  - A request for the regulated entity to name its examination coordinator; and
  - Additional information may be requested at a later date.
  - If the examination is to be led by a contract firm, the regulated entity shall be notified.
- (4) The Department of Insurance should develop a preliminary examination packet or handbook that should be sent to the examination coordinator as soon as possible but in no case any later than 30 days before the estimated commencement of the on-site examination. The preliminary information should contain the following information:
  - General instructions;
  - The scope of the examination;

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- The materials requested to perform the examination;
  - Data calls;
  - Requirements for accommodations and supplies including modem requirements;
  - Time and cost estimates;
  - Travel information;
  - Specific instructions regarding sampling, communications with the regulated entity and other pertinent information;
  - Location of on-site examination;
  - Security arrangements; and
  - Billing procedures.
- (5) The Department of Insurance should adopt the standardized data calls contained in the referenced documents section of the *Market Regulation Handbook*. If the Department of Insurance deviates from the standardized data call, it should notify the regulated entity of the deviation and may want to allow additional time for the regulated entity to provide the information.
- (6) The Department of Insurance should provide an opportunity for a pre-examination conference with the regulated entity coordinator and key personnel to clarify expectations prior to the commencement of the examination.
- (7) The Department of Insurance should develop a system for exchanging information with the regulated entity that advises them of the errors and other problems developed during the examination. The state should be mindful of timeframes contained in the Market Conduct Record Retention and Production Model Regulation. The system could consist of “crit” sheets, summaries, or both. Any form of communication concerning errors should include the following information:
- Record numbers or other identifying factors;
  - The examiners’ statement of the problem or error and, if relevant, the applicable law and/or standard; and
  - A request for signature and comment from the regulated entity.
- (8) Each Department of Insurance should develop a procedure for document handling, including the removal of original documents, where that is necessary, to a location other than the Department of Insurance. 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 state Department of Insurance.
- (9) The Department of Insurance should use documented sampling guidelines or develop their own scientifically-based sampling programs.
- All sampling methods should be random;
  - If using a method other than the NAIC sampling guidelines, the method should indicate the confidence levels, tolerable error rates and include extrapolation;
  - All sampling methods should avoid pre-selection; however, stratified sampling is allowed; and
  - The nature of the sampling method chosen should be disclosed to the regulated entity that is the subject of the examination.
- (10) The Department of Insurance should offer to conduct an exit conference at the end of an examination. The exit conference should offer the following:
- The examination status and proposed findings;
  - The report process; and

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- An explanation of any post-examination billing.

### (f) Scheduling of Examinations

Standard: In scheduling market conduct examinations, the Department should follow procedures such as those set forth in the NAIC *Market Regulation Handbook*. This system should accord priority to companies which exhibit adverse market trends or otherwise demonstrate a need for examination.

#### Guidelines

- (1) The Department of Insurance should prioritize examinations, establish criteria for calling a market conduct examination, prepare a schedule of examinations, and select a person responsible for developing and maintaining the schedule. Exceptions may be made when an examination is called as a “no-knock” examination. The trigger or reason for the examination should be maintained in the examination documents, preferably the work papers, and where appropriate shared with the regulated entity.
- (2) The Department of Insurance shall utilize the NAIC Examination Tracking System (ETS). As soon as scheduled, the Department should enter the examination into the ETS. The Department should adopt a system for ensuring proper implementation and maintenance of the ETS system, including utilization of NAIC developed aids, such as a data entry checklist.
- (3) Exams should be entered into the ETS no later than 60 days before the expected date of the on-site examination. Exceptions to this rule are examinations that are called to respond to more immediate conditions, or to accommodate the schedule of the regulated entity.

### (g) Examination Reports

Standard: The Department’s reports of examination should be prepared in accordance with the format adopted by the NAIC and should be sent to other states in which the insurer transacts business in a timely fashion.

#### Guidelines

- (1) The Department of Insurance should utilize the standard report format found in the *Market Regulation Handbook*. Each report shall at a minimum include the following:
  - Title page;
  - Table of contents;
  - Salutation;
  - Foreword;
  - Scope;
  - Executive summary;
  - Results of previous examinations;
  - Pertinent facts of the current examination;
  - Summarization; and
  - Appendices.
- (2) The Department of Insurance should utilize a standardized timeline as required by the state’s statute or the NAIC Model Law on Examinations.

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- The draft report is delivered to the regulated entity within 60 days of completion of the examination;
  - The regulated entity must respond with comments to the Department of Insurance within 30 days;
  - The Department of Insurance has 30 days to informally resolve issues and prepare a final report (unless there is a mutual agreement to extend the deadline); and
  - The regulated entity has 30 days to accept the final report or request a hearing.
- (3) The Department of Insurance should include the regulated entity's response in the final examination report where allowed by law. 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 should indicate that a response is available. The regulated entity is not obligated to submit a response. Individuals involved in the examination should not be named in either the report or the response except to acknowledge their involvement.
- (4) The Department of Insurance should publish final reports as public documents where allowed by law.
- Departments of Insurance should publish the final examination report on the Department of Insurance's Web site; and
  - Departments of Insurance should develop a process for releasing final examination results to the public. A press release may be used.

### (h) Reporting of Material Adverse Findings

Standard: The Department's procedures should require that all material adverse findings be promptly presented to the commissioner or an appropriate designee for determination and implementation of appropriate regulatory action.

Guidelines: A material adverse finding is defined as a finding made by a Department with respect to an event, trend, transaction or series of transactions, fluctuation, agreement, arrangement, operating results or violation of law, which either has, or reasonably could have, a significant negative impact on consumers.

- (1) The Department should have a policy or procedure to require that all material adverse findings be promptly presented to the commissioner or an appropriate designee. This policy or procedure should be in written form and should be formally communicated to individuals capable of taking appropriate regulatory action via inclusion in the Department Handbook or through some other formal communication channel such as department bulletin, memo, etc. The policy or procedure should define a material adverse finding and to whom the finding should be communicated, as described in Guideline (3), and require findings to be promptly reported.
- (2) Examination workpapers should contain evidence that material findings were promptly presented to the commissioner or appropriate designee.
- (3) Material adverse findings should be reported to individuals who are capable of taking appropriate regulatory action.

### (i) Action on Material Adverse Findings

Standard: Upon the reporting of any material adverse findings from the examination staff, the Department should take timely action in response to such findings or adequately demonstrate the determination that no action was required.

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Guidelines: In determining compliance with this standard, the ultimate action of the regulator will be accepted as appropriate as long as the logic of the decision is clearly documented and the decision is reasonable based upon what other regulators would commonly understand to be appropriate in that scenario and given the information available at that time.

- (1) The Department should have a policy or procedure to take timely action in response to material adverse findings or adequately demonstrate and document that no action was required.
- (2) Department files should contain evidence that timely action was taken on material adverse findings or adequately demonstrate and document that no action was required.
- (3) The Department of Insurance should be able to demonstrate an enforcement strategy, and specifically the role of market conduct activities in that effort. An effective enforcement strategy includes having a system in place to differentiate between willful actions and inadvertent ones and consider appropriate administrative resolutions whether it is financial or nonfinancial. Departments of Insurance should also want to consider a methodology 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.
- (4) The Department of Insurance should establish a process to follow-up on examination findings.

#### 4. Consumer Complaints

##### (a) Receiving and Processing Consumer Complaints

Standard: The Department of Insurance should have standards in place to receive and handle complaints and inquiries in accordance with NAIC guidelines. The Department of Insurance should record complaints in a database and submit closed complaint data to the NAIC CDS on a regular basis.

##### Guidelines

- (1) The Department of Insurance should have a unit or staff responsible for receiving consumer complaints and inquiries. The unit or individuals should have sufficient training and expertise to identify the elements of a complaint and either handle the complaints or assign them to the appropriate Department of Insurance employee to handle.
- (2) The Department of Insurance should establish criteria defining complaints and inquiries, the method of receipt and the content required in order to accept the complaint. At a minimum, the definition of a complaint developed by the NAIC should be used. The Department of Insurance should have a process to accept complaint referrals from the NAIC Consumer Information Source (CIS). The Department of Insurance should, at a minimum, accept written complaints and have procedures for obtaining additional information from the consumer.

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(3) The Department of Insurance should have a system for recording and tracking complaints in a database using a coding system to facilitate analysis and trending. Complaints should be recorded on receipt using uniform definitions and standard coding protocols. The Department of Insurance's complaint tracking system should contain sufficient data to compile and measure complaints by type, reason and company or licensed entity. The database should allow the Department of Insurance to track key elements of the complaint process including date received, date resolved and the current status of the complaint. All accurate, closed complaints should be submitted to the NAIC CDS in accordance with URTT criteria. The Department of Insurance should have a procedure in place to monitor the accuracy of complaint data.

### (b) Action on Consumer Complaints

Standard: The Department of Insurance should have standards for investigating complaints, responding to the complainant, and referring law violations for administrative action and reporting complaint patterns and trends to the Market Analysis Chief.

#### Guidelines

(1) The Department of Insurance should have a process for acknowledging receipt of complaints, investigating the allegations and reporting the results of the investigation to the consumer. Criteria should be established for determining if the Department of Insurance has jurisdiction over a complaint and communicating that information to the consumer. Complaints requiring investigation should be referred to the appropriate staff in the Department of Insurance for processing. The Department of Insurance should have procedures in place to make the regulated entity aware that a complaint has been filed and to provide an opportunity to respond to the allegations in the complaint. The Department of Insurance should review the response of the regulated entity and provide the consumer with a written response when the complaint file is closed.

(2) The Department of Insurance should have a process for identifying complaints involving violations and referring these complaints for administrative action.

(3) The Department of Insurance should have procedures in place to provide regular reports on complaint patterns, trends, unusual activity and significant individual complaints to the Market Analysis Chief. Complaint ratios should also be calculated and information on outliers should be provided to the Market Analysis Chief.

## 5. Information Sharing and Interstate Collaboration

### (a) Information Sharing

Standard: States should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries providing that the recipients are required, under their law, to maintain its confidentiality. States also should allow for the sharing of otherwise confidential documents, materials, information, administrative or judicial orders, or other actions with the NAIC providing that the NAIC demonstrates by written statement the intent to maintain its confidentiality. The Department should have a documented policy to cooperate and share information with respect to companies with the regulatory officials of any state, federal agency or foreign

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countries and the NAIC directly and also indirectly through committees established by the NAIC which may be reviewing and coordinating regulatory oversight and activities.

### Guidelines

- (1) The Department should demonstrate that it is authorized to share confidential documents, materials, information, administrative or judicial orders, or other actions with the regulatory officials of any state, federal agency or foreign countries and the NAIC provided that the recipients are required to maintain its confidentiality.
- (2) The Department should demonstrate that it is authorized to keep confidential documents, materials, and information provided by the regulatory officials of any state, federal agency or foreign countries and the NAIC, which is considered confidential in their jurisdiction.
- (3) The Department should have a documented policy to cooperate and share documents, materials, and information with the regulatory officials of any state, federal agency or foreign countries and the NAIC.
- (4) The Department should make reasonable efforts to respond to inquiries from the Market Actions Working Group and any other appropriate NAIC body.
- (5) **Ohio suggestion** – The Department of Insurance should be able to hold confidential the following information:
  - When a company self reports a problem to the Department;
  - Any data call information, such as the Market Conduct Annual Statement; and
  - Any data shared with the NAIC.

### (b) Interstate Collaboration

Standard: The Department should participate in interstate collaboration through:

- (i) Participation with the Market Actions Working Group (MAWG) to include, but not be limited to, participation in calls and surveys;
- (ii) Timely entry and participation in the NAIC databases;
- (iii) Notifying the Collaborative Action Designee or Market Analysis Chief of the domestic Department of Insurance when considering one of the continuum of regulatory responses; and
- (iv) Following the collaborative actions guidelines for recommendations to MAWG.

### General Guidelines

- (1) The Department of Insurance should participate fully in the NAIC databases and its submissions should be timely, accurate and complete.
- (2) The referring Department of Insurance should take recommended action on all companies it has referred to MAWG. If a Department of Insurance refers a regulated entity to the MAWG agenda that results in a collaborative action, a lead Department of Insurance(s) will be identified and the lead Department of Insurance(s) will identify additional participating Departments of Insurance as identified in the *Collaborative Actions Guide*. The referring Department of Insurance should continue to participate and support the MAWG initiative.
- (3) The Department of Insurance should follow the procedures in the Collaborative Actions chapter of the *Market Regulation Handbook*.

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- (4) Referrals to MAWG should be made when appropriate and when material issues may impact other jurisdictions. Referrals should be made by the Collaborative Action Designee, Deputy Insurance Commissioner, Insurance Commissioner or other individual designated by the Commissioner.
- (5) Department of Insurance referrals and accompanying materials to MAWG should be provided in the format developed and approved by MAWG or the NAIC (D) Committee, as appropriate.
- (6) 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 should review the issue in a timely manner and respond timely and appropriately to MAWG.
- (7) In lieu of any such examination or investigation, the Department of Insurance may accept the report of a similar examination or investigation made by the insurance supervisory official of another state.
- (8) The Department of Insurance should participate in collaborative activities or communicate with other affected Departments of Insurance when there are common areas of concern between Departments of Insurance, but the issue is not appropriate for referral to MAWG.
- (9) The Department of Insurance should notify MAWG when a material issue has been detected and the regulated entity has offered to take corrective action in all impacted jurisdictions.
- (10) When appropriate, the Department of Insurance should participate in collaborative actions and settlements.
- (11) Upon the reporting of any material adverse findings from the market analysis staff, the Department of Insurance should take timely action in response to such findings or adequately demonstrate the determination that no action was required.
- (12) The Department of Insurance should make reasonable efforts to respond to inquiries from MAWG, NAIC (D) Committee and other working groups formed by the NAIC to aid in the market analysis process.

### Guidelines for the Market Analysis Chief (MAC)

- (1) The Department of Insurance should appoint a Market Analysis Chief and promptly notify the NAIC if the Market Analysis Chief changes. The MAC or the MAC's designee should have the authority to represent the Department of Insurance in matters related to discussions regarding market analysis.
- (2) The MAC or his or her designee should be actively involved with the NAIC market analysis areas and working groups. The MAC will work with the NAIC to accomplish the goal that each state should "adopt uniform market analysis standards and procedures" and use its market analysis in other market regulatory functions, including market conduct and interstate collaboration. The MAC or, when unavailable, a designee assigned by the MAC, shall participate in all Market Analysis Procedures Working Group (MAP) meetings or conference calls. If the MAC does

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not attend the NAIC national meetings, the MAC or designee shall participate in each MAP conference call.

- (3) The Department of Insurance should have procedures for the MAC to communicate with appropriate Department of Insurance staff. The MAC should work with the appropriate staff in areas including consumer services, enforcement, legal, forms and filing, financial, market analysis and market conduct to ensure that there are documented procedures to notify the MAC of unusual activity that may be of interest for market analysis. The MAC shall establish means of regular communication with the unit heads of these areas. Such communication shall include, at a minimum, a quarterly questionnaire in accordance with the Market Analysis Core Competencies.
- (4) The MAC should participate in communication with other Departments of Insurance regarding market analysis. The MAC, in coordination with the Department of Insurance's CAD, should 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) should be handled by the MAC or their designee.
- (5) The MAC should be responsible for implementation of the NAIC's recommended tasks for an effective market analysis program. The MAC should coordinate with Department of Insurance staff to ensure that at least the NAIC's minimum recommended tasks for an effective market analysis program as outlined in the *Market Regulation Handbook* are accomplished.
- (6) The Department of Insurance should provide the MAC with the necessary authority to communicate with responsible staff to ensure that CDS, ETS and RIRS data is submitted electronically in a frequent, current, accurate and complete manner.
- (7) The MAC should ensure that market analysis staff utilize appropriate information such as the Market Analysis Company Prioritization Tool for baseline analysis of lines of business and that Level 1 Analysis is recorded in the Market Analysis Review System (MARS). The MAC shall also assure that Level 1 recommendations are acted upon and where appropriate, the MITS system is updated with the action taken.

### Guidelines for the Collaborative Action Designee (CAD)

- (1) The Department of Insurance should appoint a Collaborative Action Designee and promptly notify the NAIC if the Collaborative Action Designee changes. The CAD or the CAD's designee should have the authority to represent the Department in discussions regarding collaborative actions among states.
- (2) The CAD or his or her designee should be actively involved with MAWG. The CAD or when unavailable, a designee assigned by the CAD, should participate in all Market Actions Working Group (MAWG) meetings or conference calls that are opened to non-working group member regulators. If the state does not have a designee attending national meetings, the CAD or designee should participate in each quarterly MAWG/CAD conference call.
- (3) The Department of Insurance should have procedures for the CAD to communicate with appropriate Department of Insurance staff regarding potential collaborative action issues and ongoing collaborative actions. The CAD should advise the appropriate staff in areas including, but not limited to consumer services,

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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. The CAD should establish a method of at least quarterly communication with the unit heads of these areas to follow-up on ongoing and potential collaborative actions.

- (4) The CAD should participate in communication with other Departments of Insurance regarding interstate collaborative actions. The CAD, in coordination with the Department of Insurance's Market Analysis Chief, should 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) should be handled by the MAC, and those related to potential or active collaborative actions should be the responsibility of the CAD. The CAD should coordinate responses and information obtained via the Bulletin Boards with the appropriate Department of Insurance staff. The CAD should maintain communication with appropriate staff of the domestic regulator on issues and status related to potential collaborative actions.
- (5) When authorized by the Department of Insurance Commissioner or Director, the CAD should prepare referrals to MAWG for potential collaborative actions affecting multiple jurisdictions. The CAD should 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 should be referred to MAWG. The CAD should 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.
- (6) The CAD should follow up on MAWG referrals and if requested, report to MAWG. If the MAWG referral results in the Department of Insurance becoming a lead state in the collaborative action, the CAD should coordinate the Department's handling of the matter and report as requested to MAWG and other CADs.
- (7) In regard to privileged and confidential information they may receive from other participating states and the NAIC, the CAD and the Department of Insurance should maintain said privileged and confidential information at least as confidentially as required by the NAIC's Master Information Sharing and Confidentiality Agreement.
- (8) If MAWG refers a matter to the Department of Insurance, the CAD should relay the referral to the appropriate Department staff in a timely manner and respond appropriately and timely to MAWG regarding the referral.
- (9) The Department of Insurance should 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 his/her designee. Transmittal of collaborative action settlement documents and the Department's participation should be made within the time frames established in the communication from the lead state(s) or the NAIC.

### Guidelines for Data Collection and Entry into NAIC Databases

- (1) The Department of Insurance should fully participate in CDS, ETS, and RIRS. "Full" participation means that CDS, ETS, and RIRS data in the Department of Insurance is submitted electronically to the appropriate NAIC databases in a frequent, current, accurate, and complete manner. The Department of Insurance should be able to

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certify annually that it has made timely and complete submissions of all relevant information to the CDS, ETS and RIRS databases for the preceding calendar year.

- (2) The Department of Insurance should reference and utilize information available through the various databases and resources in I-SITE.
- (3) The Department of Insurance should actively utilize the Market Analysis Review System.
- (4) The Department of Insurance should make reasonable attempts to avoid duplicative and overlapping data collection whenever possible. The Department of Insurance should use the uniform data calls for data collection purposes. If the Department of Insurance deviates from standardized data calls, it will notify the regulated entity of the deviation and may allow for additional time for the regulated entity to provide the information.
- (5) The Department of Insurance in collecting data, including data collected through the Market Conduct Annual Statement, should ensure the data is shared and considered in the market analysis process.