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October 8, 20009

Craig Leonard, Assistant Director of Market Regulation
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Re: Draft of Market Regulation Standards & Accreditation Program

Dear ~~Mr. Leonard~~ Craig,

Thank you for preparing the September 1, 2009 draft of the NAIC Market Regulation Standards & Accreditation Program. Your work on this draft has obviously been quite extensive.

As you know, I have been a proponent of a strong market accreditation program for some time. On June 16, 2008, in a letter to former Montana Insurance Commissioner John Morrison, I re-iterated my support for a phased-in, strong market accreditation program. I believe the principles for such a program, which were included in my letter to Commissioner Morrison, are still valid and worthy of consideration.

I have heard some feedback in response to this draft that, if market accreditation follows the form of financial accreditation, the market oversight program will lose its separate identity. If a majority of states were still operating market oversight as an off-shoot of the financial examination process, there might be some validity to those concerns. From my perspective, market oversight generally has its own identity and now needs its own accreditation process to confirm that identity. You have properly tailored the form of a financial accreditation document to capture the essence of a market accreditation program. Now it is just necessary to ensure that your draft captures all of the necessary elements.

As I explained to Commissioner Morrison, I believe that a market accreditation program must be robust, more than business-as-usual, and represent real change in order to be credible. My experience as a former member of the Washington State Legislature leads me to believe that state legislatures will want to see a well-defined program with meaningful review before they will seriously consider any proposals relating to market accreditation. Legislatures everywhere will be looking for a program that encourages the use of uniform processes that allow the states to rely on each other's work product in market regulation.

I have also heard that some states are overwhelmed by the prospect of a new program with a very short implementation period. I understand that concern, but I think it can be at least partially addressed by the way accreditation is presented.

The Market Regulation Handbook identifies four major competency areas, ten sub-competencies, and 100 standards defining those competencies. States are familiar with those competencies and standards, and I understand that a number of states have previously reported being in compliance with those standards. Some of the language in your September 1st draft comes directly from core competencies and standards, but not all core competencies and standards are readily identified in the draft. The more states can identify core competencies in the draft, even if it is simply a parenthetical reference to the core competency, the more likely it is that the states will recognize that the accreditation standards are not new.

Also, if they can see core competencies and standards in the draft, the states will be able to realize that they have already done the work to comply. That realization should help them understand that accreditation is achievable.

States' concerns over a short implementation period can be allayed with a definitive phase-in. Three phases brought in over six years would allow each state several legislative sessions to accomplish any statutory changes necessary for accreditation. Concerns can be further allayed by populating Phase I with competencies and standards which a significant number of states have already met.

Phase II could be populated with competencies and standards met by some states but judged to be the next most easily achieved. Phase III would consist of the remaining, harder-to-obtain competencies and standards. A phased-in approach allows states to better allocate resources and also provides opportunities for "wins" along the way.

In order to sell to the NAIC membership and the several legislatures the Market Regulation Standards & Accreditation Program as currently evidenced by your September 1st draft, I believe you will need to add a brief description of how the program will be managed and a commitment to a phase-in.

To that end, I suggest adding a new paragraph to the mission statement following the last numbered item:

> The mission of the Market Regulation Standards & Accreditation Program will be accomplished through compliance reviews occurring not less often than every fifth year. Compliance reviews will be managed by the Market Regulation Standards & Accreditation Committee, which is composed of one commissioner from each of the four NAIC zones, four commissioners selected by the NAIC membership from among the eight states in which the most nationwide premium is

reported, and a commissioner appointed by the NAIC Executive Committee to be the chair person with full voting rights.

I also suggest adding at the end of the September 1st draft:

NAIC MARKET REGULATION STANDARDS
& ACCREDITATION PROGRAM

Implementation

These accreditation standards and guidelines will be phased-in to allow all states to become compliant with accreditation standards. The schedule for compliance with accreditation standards shall be:

Phase I, consisting of standards [description of standards inserted by CL], shall require compliance no later than December 31, 2011.

Phase II, consisting of standards [description of standards inserted by CL], shall require compliance with Phase I and Phase II no later than December 31, 2013.

Phase III, consisting of standards [description of standards inserted by CL], shall require compliance with Phase I, Phase II, and Phase III no later than December 31, 2015.

A state may request a review of its compliance with the Market Regulation Standards & Accreditation Program at any time the state believes it is compliant with all three phases.

After initial accreditation, states will be subject to re-review on a recurring five-year cycle to assure continuing compliance.

Other revisions to the draft that I believe will help with the program's adoption are:

Amend the very first line of the mission statement to read "to provide uniform processes whereby..."

Amend numbered item 2 of the mission statement to read "...market conduct examination through the use of uniform processes..."

Clarify that guideline 2 at the top of page 12 relates to material "adverse" findings.

Consider replacing "developed" ...with "documented" in the third line of guideline 7 on page 19.

Clarify that guideline 2 near the bottom of page 21 relates to material "adverse" findings.

Probably the most critical revision, from my perspective, would be to include all core competencies and at least a majority of the standards, and to identify them in this document by reference to the Market Regulation Handbook.

I cannot support a market accreditation program that is nothing more than self certification. Such a program would not be perceived by our constituencies as a meaningful tool to improve regulation. We need a robust program with reasonable, understandable, and meaningful measures, and consequences for non-compliance. I hope the suggestions contained in this letter are helpful to you in putting together the documentation for the Market Regulation Standards & Accreditation Program.

If my staff or I can help in any way, please feel free to contact us.

Sincerely,

Mike Kreidler
Insurance Commissioner

cc: Oklahoma Insurance Commissioner Kim Holland
Maryland Insurance Commissioner Ralph Tyler
Jim Odiorne, Deputy Commissioner for Company Supervision
Leslie Krier, Market Conduct Oversight Program Manager