

COMMONWEALTH OF VIRGINIA

ALFRED W. GROSS
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
<http://www.scc.virginia.gov>

July 1, 2008

Sent Via E-Mail to TMullen@NAIC.org

The Honorable John Morrison
State Auditor, Commissioner of Insurance and Securities
State Auditor's Office
840 Helena Avenue
Helena, Montana 59601

Dear Commissioner Morrison:

On behalf of the Property and Casualty Division and the Life and Health Division of the Virginia Bureau of Insurance, I would like to provide our comments regarding the proposed NAIC Market Regulation Accreditation Program.

- Since state laws vary, the committee may want to consider adopting a process similar to the way that the financial accreditation process works by using independent third party review teams to conduct the reviews.
- We have a concern with the provision in the Regulatory Authority Competency that deems a state to have failed the standard if it does not contain one or more of the provisions of the NAIC Model Law on Examinations. Many of the provisions of this model law are not applicable to market conduct examinations. For example, the provision requiring every licensed insurer to be examined no less frequently than once every five years would seem to run counter to the market analysis process which discourages examinations to be conducted unless a potential problem has been identified. In addition, the NAIC Model Law on Examinations allows an examination report to be accepted if it is prepared by the insurance department of the insurer's state of domicile if such insurance department is accredited or the examination is performed under the supervision of an accredited insurance department. Since state laws vary, this standard would not be appropriate for market conduct examinations. **Consequently, we would like to suggest that in the Test for Adequacy, the following sentence be deleted: "An insurance department's statutes, rules and/or regulations which do not contain one or more of the provisions of the NAIC Model Law on Examinations shall be deemed to have failed this standard." We would also like to suggest that this standard be revised to allow the insurance department to comply with substantially similar provisions as the model law and only those that are relevant to market conduct examinations.**
- We have a concern with the provision in the Regulatory Authority Competency that deems a state to have failed the standard if it does not contain one or more of the provisions of the

NAIC Unfair Trade Practices Act and the NAIC Unfair Claim Settlement Practices Act. While we believe that we would meet the standard of having laws that are substantially similar to the NAIC Unfair Trade Practices Act and the NAIC Unfair Claims Settlement Practices Act, we do not have the exact same language, and some of the provisions in the NAIC model laws are not contained in our law. **Consequently, we would like to suggest that in the Test for Adequacy, the following sentence be deleted: “An insurance department’s statutes, rules and/or regulations which do not contain one or more of the provisions of both the NAIC Unfair Trade Practices Act and the NAIC Unfair Claims Settlement Practices Act shall be deemed to have failed this standard.” We would also like to suggest that the Test for Adequacy be revised to allow the insurance department to comply with substantially similar provisions as the model laws and delete the phrase “as all of the provisions” of the model laws.**

- We are concerned that under the Analysis Competency, the reference to “June 30 of the year to be examined” is unclear. **Therefore, we would like to suggest that under the Test for Timeliness, the reference to “June 30 of the year to be examined” be changed to “June 30 of the year following the year the data was due.”** For example, by June 30, 2008, the required number of Level 1 analysis reviews must have been completed for companies that were required to submit their 2006 calendar year data in 2007.
- Under the Continuum Competency, we would like to suggest that only those actions that have a potential impact on the other states be entered into MITS. Otherwise we will be entering violations of Virginia insurance law that are not violations in other states. **Therefore, we would like to suggest that under the Criteria for Compliance, the second bullet point be revised to say “An insurance department shall add a regulatory initiative into MITS no later than 30 days after the department has determined that there is merit to the issue that gave rise to the continuum action.”**
- Under the Investigation Competency, we would like to suggest that under the Criteria for Compliance, the language be revised to make it clear that MITS captures *insurance company* investigations. This would be consistent with the description of MITS in the 2008 Market Regulation Handbook as well as the description of MITS in the NAIC MITS Guide Document found on the NAIC’s I-Site. **We would, therefore, like to suggest that language be revised in the first bullet point under the Criteria for Compliance to say “An insurance department shall enter an insurance company investigation into MITS no later than 30 days after the investigation has indicated that there is merit to the issue that gave rise to the investigation.”**
- In the Consumer Complaint Competency, it is not clear whether the requirements under the Criteria for Compliance are referring to a formal reconciliation process (where the insurance department submits its complaint records to each insurer) or whether the insurance department is responsible for simply verifying at least quarterly that the records are consistent with the information provided by the companies and that any inconsistencies reported by the companies are addressed by the insurance department. **We would, therefore, like to suggest that the language in the third bullet be revised as follows: “An insurance department shall monitor, on a no less than quarterly basis, the accuracy of complaint data in its complaint tracking system by reconciling complaint data with data provided in the regulated entity’s response to the complaint. The insurance department shall**

also be required, upon request, to provide the regulated entity with a copy of its complaint records as reported to the NAIC.”

Thank you for allowing us to provide our comments. We would be happy to discuss these comments in more detail.

Sincerely,

A handwritten signature in black ink that reads "JoAnne Scott". The signature is written in a cursive style with a large initial "J" and "S".

JoAnne Scott, CPCU, AIE, ARP
Assistant Deputy Commissioner
Property and Casualty Division