

February 1, 2013

Commissioner Jim Donelon, President, NAIC
Commissioner Sharon Clark, Chair, NAIC Market Regulation D Committee
Commissioner Steve Robertson, Vice Chair, NAIC Market Regulation D Committee

Re: Expansion of Market Regulation Data Collection: LTC Combination Products

Dear Commissioners Donelon, Clark and Robertson,

The undersigned consumer representatives write to urge the NAIC to continue expansion of market regulation data collection to improve state insurance regulators' market analysis and market regulation capabilities. We also write to explain the need for and reasonableness of expanding the Market Conduct Annual Statement for hybrid long term care products.

Enhanced Market Performance Data Collection is the Foundation of Market Analysis and Effective Market Regulation

It has been over a decade since the NAIC committed state insurance regulators to modernizing insurance market regulation by shifting the focus from comprehensive market conduct exams to a system of enhanced market surveillance through market analysis combined with more targeted regulatory responses to market problems. The core of the new approach is Market Analysis – enhanced market surveillance by regulators to more pro-actively identify market problems and problem companies and to allow more efficient regulatory responses. And the foundation of the new Market Analysis is enhanced data collection for this analysis, primarily through the Market Conduct Annual Statement (MCAS).

To date, MCAS data collection has been very modest. MCAS data are collected only for some life, annuity, personal auto and homeowners products. MCAS data reporting for stand-alone individual market long term care insurance will begin in 2015. For each MCAS line of insurance, the number of data elements is relatively small – an entire MCAS report would easily fit into a single page on the statutory annual statement. Data collected for market regulation are a tiny fraction of the data collected for financial regulation.

For many years, the stated goal has been to expand MCAS data collection to additional lines beyond the initial four of individual life, individual annuity, personal auto and homeowners insurance and to add new data elements as necessary to existing MCAS lines. To date, progress has been modest with the addition of only the stand-alone Long Term Care (LTC) insurance MCAS for 2014 experience to be reported initially in 2015.

We urge the NAIC to increase the resources devoted to market regulation support, generally, and to development of MCAS data, specifically.

MCAS Data for Hybrid Long Term Care

At the December 2012 NAIC meeting, the Market Analysis Procedures Working Group (MAP WG), the Market Information Systems Task Force and the Market Regulation D Committee adopted the data elements and data definitions for the long term care insurance MCAS, which is limited to data for stand-alone individual long term care policies. The same groups also directed the MAP WG to quickly develop MCAS data elements and data definitions for hybrid long term care products – life insurance or annuity policies which include some form of long-term care benefits.

We understand that the ACLI is lobbying regulators to abandon this effort and we write to explain why expanding MCAS for hybrid LTC products is necessary and reasonable and was always anticipated as the original LTC MCAS was developed.

Regulators and consumer representatives working on the original LTC MCAS always recognized the need to collect data on both stand-alone and hybrid LTC products. The sale of new individual LTC products is heavily weighted towards products which combine life insurance or annuities with LTC benefits. Consequently, collecting data only on stand-alone LTC products would leave a large gap in market data for regulators on the LTC market.

During the development of the original (stand-alone) LTC MCAS, the insurer representatives claimed that data for hybrid LTC products was housed in different systems from those housing data for stand-alone LTC products. For example, the insurers claimed that Life LTC combination product data are maintained on the life insurance data systems. The insurers further claimed that it would be burdensome for insurers to pull data from life, annuity and LTC systems to report data on all LTC products in a single MCAS report. In response to these claims, the LTC MCAS subgroup decided to develop the LTC MCAS blank for stand-alone LTC products and to supplement the existing life and annuity MCAS with data elements for hybrid LTC products. The intent was always to capture all types of LTC products – stand-alone and combination – but to do so in a manner least burdensome on reporting companies.

As directed by the parent committee and task force, the MCAS LTC subgroup has met to develop the additions to the Life MCAS and Annuity MCAS blanks for hybrid LTC products. However, the ACLI has been quite clear that it now opposes the development and implementation of the MCAS blanks for hybrid LTC products.

We urge the NAIC leadership and Market Regulation D Committee to reject industry efforts to stop the expansion of MCAS to additional lines of insurance, generally, and the development of hybrid LTC MCAS, specifically. We urge the NAIC to prioritize the development of expanded MCAS data as the most important and most effective tool for improving the market regulation capabilities of state insurance regulators.

Sincerely,

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cc

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