

Ms. Nolan and Mr. Humphreys,

I write on behalf of the Center for Economic Justice with supplemental comments on the NCOIL MCAS Model Act.

The latest industry comments include a threshold for MCAS submission based on the number of complaints. We understand that this proposed language was provided following discussion at the recent conference call. Conditioning MCAS submissions on a complaint ratio is a bad idea which reflects a misunderstanding of the purpose of the Market Conduct Annual Statement and market analysis generally.

The purpose of market analysis is to enable the regulator to analyze and evaluate the markets for various lines of insurance and to identify problem issues and problem participants in those markets. The purpose is to enable the regulator to better understand the operation of insurance market, and to be more proactive and better identify problems before they become widespread. Consequently, it is necessary for all insurers to report market performance data to regulators so regulators have a comprehensive view of the markets. Conditioning reporting of data on complaints -- even if complaints were meaningful indicators of market performance -- would undermine the purpose and performance of market analysis. The use of complaints is particularly ill-advised because the complaint data available to regulators is unreliable for market analysis purposes and is not a reliable indicator of the market problems or, more importantly, the absence of market problems. The use of complaint thresholds to condition reporting of MCAS turns market analysis on its head by conditioning collection of data to evaluate markets on an unreliable indicator of market performance.

Another purpose of the market performance data collection is to provide the regulator with information to provide consumers to enable consumers to evaluate the market performance of insurers and thereby improve the competitive operation of markets. Just as financial data and statistical data are collected and used by regulators for both financial/rate regulatory purposes and public information, so should market performance data -- in some form -- be available to consumers. The latest industry proposal is astonishing in its breadth of restrictions on regulator actions and public information. By its actions, the industry is preventing the development and capability of market analysis to replace comprehensive market conduct examinations with data-driven analytics that target specific problems. Even if some MCAS data are considered proprietary, there should be, one, no massive blanket declaration of all MCAS data and anything developed from or related to MCAS data as non-public information; and, two, an affirmative requirement for regulators to publish insurer-specific market performance data for consumers.

Thanks for your consideration.

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Center for Economic Justice