

— Market Examination Section —

The Market Conduct Examination Section (the Section) monitors the Alaska “insurance market” for signs of stress such as increases in insurance consumer complaints and financial instability in insurance businesses. Insurance producers, such as agents and brokers, independent adjusting firms, and insurers are all subject to Market Conduct surveillance. If problems are spotted, various regulatory actions, part of a “Continuum” of regulatory practices, may be recommended to the director. Actions might include Market Analysis, on-site examination, or other formal processes.

Developed by the National Association of Insurance Commissioners (NAIC), Market Analysis is similar to but broader in scope than Financial Analysis. It is performed yearly on selected insurance companies; and although a prelude to most on-site examinations, it can be a desirable substitute for the on-site. If financial and complaint data collected for Market Analysis prior to an on-site do not indicate violations, the on-site may be avoided with considerable cost savings.

On-site market conduct examinations are structured, detailed, and performed at the examinee’s place of business. They are done according to specific NAIC guidelines using scientific sampling to select company files for review. Selected files are then scrutinized and analyzed for statutory compliance and adherence to market conduct standards. Non-compliance issues are then handled according to formal guidelines designed to stop illegal behavior.

Ultimately, the goal of Market Conduct is consumer protection and maintenance of a stable insurance business environment. Market Analysis and on-site examinations are just two technologies used to achieve the goal. Market Conduct may assume a consultative, informal role in cases where businesses are non-compliant simply because they do not understand or are ignorant of statutory requirements.

Market Conduct also works with other sections of the division in various ways. It is an information and analytical resource for Investigations. For Licensing, it monitors local insurance producers for compliance with licensing standards. It provides Consumer Services with analytical support and takes referrals from them for possible market conduct action (per the Director’s order). In addition, it enforces insurance provider use of only those rates and forms approved by the Rate and Form Filing Section. The Section provides ongoing support to the Investigations Section and special help when requested. More specifically, the Section continues assistance in the following areas:

- i. Researching possible unauthorized insurance activity uncovered by Consumer Complaints
- ii. Helping resolve complaint questions by applying relevant market conduct expertise
- iii. Providing health and disability insurance technical analysis and claims assistance
- iv. Providing property and casualty insurance technical assistance

As a partner with other sections in the division, Market Conduct maintains an overview of the insurance market as a whole using Market Analysis, and on-site Market Conduct Examination among a continuum of regulatory practices to “take the pulse” of, and regulate, the insurance industry in Alaska.

Recent Market Conduct Accomplishments

In FY 2009, the Market Conduct section continued monitoring “Health Discount Plans,” which are sold to Alaskans via the Internet, Fax Blasts, and Telemarketers. This is an ongoing effort to assess these questionable plans while in cooperation with Consumer Services assist consumers affected by these plans. The Section helped develop statutory language for addition to AS 21.36.155 that provides new regulatory support in this area. To that end, the Section was responsible for Stipulated Agreement Orders (SAO) with the following companies:

- i. Oxonia Insurance Group (SAO D09-07)
- ii. American Medical and Life Insurance Company (SAO D09-02)
- iii. Fairmont Premier Insurance Company (SAO D09-03)

The SAOs involved \$100,000 in fines and approximately \$157,000 in restitution to Alaskan Consumers. The orders were proposed and agreed to by the parties, following the Section's findings of unfiled/unapproved policy form use (AS 21.42.120), unlicensed sales (AS 21.27.010), and product misrepresentation (AS 21.36.155 and AS 21.36.030). The SAOs can be found at <http://www.commerce.state.ak.us/insurance/orders/disciplinary.htm>.

As noted in the 2008 report, the Market Conduct Section served as one of two lead states in a nation-wide market conduct examination and investigation of the Healthmarkets (a/k/a Mega Life). As a result, the lead states and the companies signed a regulatory settlement agreement (RSA), which obtained commitments for significant changes in company behavior, increased agent training, and a \$20 million national settlement. In FY 2009, the Section continued in its lead role by monitoring Healthmarkets compliance with the RSA. Two RSA compliance reports were reviewed in conjunction with an onsite visit at the company.

In FY 2009, the Section conducted a market conduct examination of the Safeco Insurance Companies. The examination was called to review Safeco's processing of first party homeowner's property claims. The examination had a limited and narrow scope and focused on four issues.

- i. Claims Documentation
- ii. Claims Investigation, Notice and Timelines
- iii. Claims department use of contractors, steering and referrals and determination of loss valuation
- iv. Claims payment Methodologies

The examiners found issues with items two, three, and four above, and made recommendations for improvement. Furthermore, Safeco provided operational plans to remedy certain problems. The full (adopted) examination report can be found at http://www.commerce.state.ak.us/insurance/mark_cond_exams.htm.

The Section reviewed an RSA for The Chubb Corporation. Alaska was a member state of the related multi-state market conduct examination. The focus of this examination was Chubb's contingent commission agreements with certain insurance producers. The complete (adopted) Regulatory Settlement Agreement can be found at http://www.commerce.state.ak.us/insurance/mark_cond_exams.htm.

In FY 2009, the Section completed National Association of Insurance Commissioners (NAIC) Market Analysis Level One reviews of all six Alaska domestic insurance companies. The Level One Analysis revealed concerns with two companies. Further analysis of those two companies is currently being conducted.

In recent years, and due to complaints received, the Section has been concerned with company and producer marketing practices for Equity Indexed Annuities (EIA). Of particular concern are EIA sales made to seniors. In FY 2009, the Division of Insurance received a proposed class action lawsuit settlement, as Alaskans are in the putative class. The Section was afforded the opportunity to review the proposed settlement and comment on it to the Director. Additionally, the Section conducted a "desk audit" of producer EIA sales records to verify compliance with the Alaska Insurance Code.

The Section continues monitoring Title Insurance market activities in Alaska. Market Conduct staff are ongoing participants in various NAIC committees that monitor the activities of insurance markets nationwide and assess critical, related issues of the day. Over the past two years, the Market Conduct Section has supported the development of software and hardware for its own use and in support of the division's overall mission. In particular, it has worked to adapt the TeamMate data management tool, using templates developed for Market Analysis. Additionally, the Section is currently structuring database and remote application access technology for use with on-site exams. The Section is also assisting with the ongoing development of an insurance division-wide data-mapping project.