Comments of the Center for Economic Justice to the

Market Conduct Annual Statement Blanks Working Group

Response to ACLI Letter of 11/8/2017

November 13, 2017

In this comment submission, CEJ reviews ACLI's November 8, 2017 comments in opposition to reporting of Life and Annuity MCAS by more detailed product types.

ACLI's most recent comment letter repeats its "procedure" objection that CEJ has not provide required justification for each of the proposed product categories in our proposal to break the current four aggregated product categories into 16 specific product categories.

ACLI also creates another strawman argument – false ascribing a position to CEJ and then criticizing this fake position.

We address these two arguments in turn.

"Procedural Flaws"

Regarding the "requirement" to adhere to some unspecified-by-ACLI procedure for justifying our proposal, ACLI is confused, among many things, by the difference between a justification for adding an entirely new line to MCAS versus clarifying or otherwise improving an existing MCAS line. CEJ's proposal is to clarify and improve the current Life and Annuity MCAS, not to add a new line of business. It may be that reporting of Contingent Deferred Annuities (CDAs) would be new or that CDAs are currently being reported in an existing aggregate category. In either case, breaking out CDAs is a clarification / improvement and not the addition of a new line of business. Similarly, breaking out a product category for hybrid fixed/variable annuities is a clarification / improvement as opposed to adding a new line of business. Presumably, these products are being reported since they are not excluded from reporting, but it is unclear how or in what category they are being reported. See attached article on growth in these hybrid or buffer annuities.

ACLI appears to conflate the requirements for adding a new MCAS line with the requirements for amending MCAS data elements. The current procedures for amending MCAS data elements require:

All recommended changes shall include all of the following:

1. a concise statement of the proposed change;
2. the statement type of the suggested change (Life and Annuity, Property and Casualty, Long Term Care, Health, etc.);
3. the reason for the change; and
4. any supporting information relating to the change.

CEJ has provided the information required by the procedure several times. We provided a concise statement of the change:

Breaking out aggregate life and annuity MCAS product categories into more specific product categories:

The current Life and Annuity MCAS requires reporting of experience broken out as follows:

1. ICVP Individual Life Cash Value Products (Includes Variable Life, Universal Life, Variable Universal Life, Term Life with Cash Value, Whole Life, & Equity Index Life)
2. INCVP Individual Life Non-Cash Value Products (Any life insurance policy that does not contain a cash value element)
3. IFA Individual Fixed Annuities (Includes Equity Index Annuity Products)
4. IVA Individual Variable Annuities

CEJ proposes the life insurance product categories be expanded to the following product categories:

1. Individual Term Life Insurance with no Cash Value
2. Individual Pre-Need / Funeral / Final Expense Life Insurance
3. ~~Individual and Group Credit Life~~
4. Other Individual Life Insurance with no Cash Value
5. Individual Variable Life Insurance
6. Individual Universal Life Insurance
7. Individual Variable Universal Life Insurance
8. Individual Whole Life Insurance
9. Individual Equity Indexed Life Insurance

CEJ proposes the annuity product categories be expanded to the following product categories:

10. Individual Immediate Fixed Annuity
11. Individual Deferred Fixed Annuity other than Qualified Longevity Annuity Contract
12. Individual Qualified Longevity Annuity Contract
13. Individual Equity Indexed Annuity
14. Individual Variable Annuity
15. Individual Fixed/Variable Annuity
16. Individual or Group Contingent Deferred Annuity

We identified the affected MCAS lines: Life and Annuity

We provided the reason for the change and supporting information in several comment letters. As CEJ has pointed out in several prior comments and in our proposal, the justification, in brief summary, for breaking the current four aggregated product groupings into more specific product reporting categories, is:

- More granular product categories allow more efficient and effective and useful market analysis by comparing companies with similar product markets. Market analysis is also more useful because industry and company ratios and trends better reflect specific product market experience instead of ratios and trends broadly averaged over multiple product markets.
- More granular product categories will produce efficiencies for insurers, regulators and the regulators' statistical agent because reporting by major product category – as opposed to groupings of disparate product categories – will reduce reporting errors and questions about data submissions.

Our earlier comments provide additional explanation and justification. ACLI's demand for some unspecified addition justification or information to meet some non-existent procedural requirement is simply without merit. The purpose of establishing procedures for amending MCAS data elements is to provide all interested parties with an opportunity to weigh in on the merits and to ensure there is a reasoned justification for any changes. The purpose of procedural requirements is not to give industry stakeholders a veto over any changes by raising frivolous "procedure" complaints. The procedural requirements in place for amending MCAS data elements have served the desired function – ACLI, industry, regulators and others have had notice and opportunity to weigh in on the merits. The fact that ACLI chooses to proffer spurious arguments is not a failure of the procedures or CEJ meeting the procedures.

It is also necessary to note that, despite over six months of exposure and numerous opportunities to comment, ACLI has never identified the information it believes is both necessary and missing to either meaningfully evaluate the CEJ proposal or to meet their interpretation of required procedures. The absence of such specification by ACLI renders their "procedure" complaints hollow.

ACLI creates a strawman argument. In an earlier letter, ACLI asked why 16 product categories and not 161? CEJ responded that 161 was not our proposal and that ACLI was free to propose even more granular categories than the 16 proposed by CEJ. CEJ identified 16 major and distinct product categories – serving different product markets and reflecting different market regulation concerns and market analysis needs. ACLI now argues that, even though CEJ proposed 16 and not 161 product categories, that CEJ is somehow unable to justify our proposed product categories. This is clearly incorrect. ACLI writes:

> In short, CEJ confirms that it believes any request to increase data collection from an insurance company must be approved because more data is better data because it certainly allows more efficient and effective and useful market analysis.
>
> This is false in a number of ways. More data is not better data if it is irrelevant to an acceptable goal or, worse, misleads to an unacceptable goal. Efficient market analysis cannot be afforded if it is divorced from a practical value. Effective market analysis must be intended to lead to effective results. One belief is not a reason for collecting more data for every product category.

CEJ does believe that reporting MCAS Life and Annuity experience by the proposed 16 product categories is a major improvement for efficient and effective market analysis using MCAS. We have explained why this is so – not generically, as claimed by ACLI, that more data is better – but specifically, by reference to specific product markets and product categories with resulting improvements from segregating clearly distinct product markets to avoid market data and market analysis of disparate products. The rationale for reporting 16 distinct product categories is analogous to the rationale for reporting life insurance products separately from annuities.

While ACLI throws out vague claims of "irrelevant" or "misleading" to "an acceptable goal" and "divorced from a practical value," ACLI has made no showing or even attempted to make a showing that these bald claims apply to the CEJ proposal.

Finally, we comment briefly on ACLI' "false equivalence" claim to CEJ's observation that that while the insurance industry – life and property/casualty – have been collecting massive amounts of new data about consumers to utilize more refined marketing, underwriting, pricing and claim settlement analytics and algorithms, industry has consistently opposed regulators' collection of more data to allow similarly more refined market analysis. ACLI notes that different institutions collect data for different reasons – a non sequitur to the point CEJ made. The issue is not whether regulators should collect the same data from insurers and insurers collect about and from consumers. Rather, the issue is regulators should be utilizing the same types of granular data collection and sophisticated analytics for market analysis and market regulation as insurers – and others – are utilizing for their business purposes. The common thread is the use of more granular data and associated analytics for improved insight and efficiencies. As such, nothing could be more hypocritical from ACLI than to object to a modest increase in data granularity for market regulation purposes.