



**Comments of the Center for Economic Justice
To the NAIC Market Analysis Procedures Working Group**

January 25, 2017

The Center for Economic Justice submits the following comments regarding the proposed changes to the Life Insurance Market Conduct Annual Statement (MCAS) titled “Reporting of Claims Closed with Payment and the Exclusion of Credit Life “ and dated January 4, 2017.

CEJ Supports the Additional Claims-Related Data Elements

The proposal breaks the current death claims elements for action within 60 days into two data elements – one for claim action within 0 to 30 days and the second for claim action within 31 to 60 days. We support this modest increase in reporting granularity and believe it will provide more useful information to regulators and, consequently, will provide benefits to reporting companies by eliminating some inquiries resulting from data reporting issues.

CEJ Suggests the Addition of “full payment” before “was made” and before “was NOT made” in all the death-claims-closed-with-payment data elements.

The current death-claims-closed-with-payment data elements state:

Number of Death Claims Closed with Payment, During the Period, [*time frame*] From the Date [the Claim was Received/ of Due Proof of Loss]. (Include claims where the final decision was payment in full, and was [NOT] made within [*time frame*] from when the claim was received).

As written, it is possible that some reporting companies may interpret the instruction to mean that the decision was made within the relevant time frame, as opposed to payment was made in the relevant time frame. To ensure no misunderstanding, CEJ suggests the following:

Number of Death Claims Closed with Payment, During the Period, [*time frame*] From the Date [the Claim was Received/ of Due Proof of Loss]. (Include claims where the final decision was payment in full, and full payment was [NOT] made within [*time frame*] from when the claim was received).

CEJ Supports the Exclusion of Credit Life from Reporting for Individual Cash and Non-Cash Life Insurance Products and Recommends That Credit Life Be Added as a Third Category of Life Insurance in the Life MCAS.

CEJ supports the exclusion of credit life from the definition of Life Insurance premiums to ensure that credit life insurance is not reported with the individual cash and non-cash life insurance MCAS experience reporting.

However, CEJ urges the MAP WG to add separate reporting of credit life to the Life MCAS blank. The rationale is straightforward – credit life is sold in a reverse-competitive market in which consumers have far less market power than in traditional life insurance markets. Credit insurance statutes and regulations recognize the weak position of consumers in credit life markets with far greater regulatory oversight of forms and rates for credit life than traditional life insurance products.

Yet, this additional regulatory oversight of forms and rates does not address unfair and abusive sales and claims settlement practices of credit insurers and lenders. As demonstrated by a recent enforcement action by the Consumer Financial Protection Bureau against CitiFinancial involving unfair and deceptive credit insurance practices, there is an urgent need for state insurance regulators to monitor credit life insurance market practices and consumer outcomes via the MCAS. The CFPB's consent order with CitiFinancial included the following related to credit insurance practices:¹

- However, Respondent failed to terminate the Credit Insurance in accordance with the terms of the note for many borrowers. Since July 2011, approximately 7,800 borrowers paid at least \$3.75 million to Respondent in premiums for Credit Insurance that should have been canceled under the terms of their promissory notes.
- Before April 2015, Respondent improperly prematurely cancelled the Credit Insurance of certain borrowers contrary to the terms of their note. Twenty-five of those borrowers subsequently submitted an insurance claim that was denied because Respondent had improperly cancelled the borrowers' Credit Insurance. The maximum total benefit those borrowers may have been eligible to receive was approximately \$442,289.

¹ http://files.consumerfinance.gov/f/documents/201701_cfpb_CitiFinancial-consent-order.pdf

The addition of credit life reporting to the Life MCAS blank would consist almost entirely of simply adding a column for credit life experience. Stated differently, reporting of credit life experience would use the existing data elements for individual cash and non-cash life insurance MCAS reporting with the following additions/changes.

- Replicate the interrogatory questions for credit life:

Credit Life (individual or group) -- Does the company have data to report for this product type? (Y/N)

Is there a reason that the reported Credit Life information may identify the company as an outlier or be substantially different from previously reported data (such as assuming, selling or closing blocks of business; shifting market strategies; underwriting changes, etc.) Yes/No

Credit Life (individual or group) comments

- Replicate the Data Elements in a new Schedule 5 – Credit Life – Individual or Group
- Add a definition for Credit Life Premiums:

Funds used to purchase credit life insurance products issued by the company, whether the coverage was issued as an individual policy or a certificate under a group policy. For the purpose of this statement, credit life insurance premiums should be determined in the same manner used for the direct gross written premium in the Credit Insurance Experience Exhibit of the company's financial annual statement.

There is clearly a need for state insurance regulators to collect MCAS data for credit life and the addition of credit life reporting would build almost entirely upon existing life MCAS data elements and instructions.

Addition of Data Elements for Lawsuits to the Life and Annuity MCAS Blanks.

The most recently-completed MCAS blanks were for stand-alone and hybrid long-term care (LTC) insurance and those MCAS blanks included the following data elements and definitions related to lawsuits:

- Number of lawsuits open as of the end of the period
- Number of lawsuits open as of the beginning of the period.
- Number of lawsuits opened during the period.
- Number of lawsuits closed during the period with consideration to the consumer.
- Total. Number of lawsuits closed during the reporting period.

Lawsuit—An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant. For purposes of reporting lawsuit in the MCAS blank:

- Include only lawsuits brought by an applicant for insurance, a policyholder or a beneficiary as a plaintiff against the reporting insurer or its agent as a defendant;
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred;
- Do not include arbitrations of any sort;
- If one lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies, count the action as three lawsuits;
- If one lawsuit has two or more complainants, report the number of complainants as the number of lawsuits. For example, if one lawsuit has two complainants, report two lawsuits. If the lawsuit is a class action, see instructions for treatment of class action lawsuits;
- Report a lawsuit in the jurisdiction in which the policy was issued with the exception of class action lawsuits; •
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class members reside. Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the applicant, policyholder, or beneficiary in an amount greater than offered by the reporting company before the lawsuit was brought.

The private passenger auto and homeowners MCAS blanks also have lawsuit data elements. Yet, the life and annuity MCAS blanks have no data reporting on lawsuits. It is clear that such information would be useful for market analysis purposes – as evidenced by the facts that state market analysts routinely review lawsuit information when available and that other MCAS blanks contain reporting of lawsuit data.

The data elements and definitions for lawsuits and lawsuits closed with consideration for the consumer are applicable to life insurance and annuities.