The Center For Economic Justice

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Joel Ario, Scott Lakin
Chairs, Market Analysis Working Group

Re: MAWG Activities

Dear Administrator Ario and Director Lakin:

I write to recap the comments I provided orally at yesterday's MAWG meeting.
Market Analysis:

I have been a bit frustrated over the past 15 months with a lack of understanding
of the respective purposes and responsibilities of the various MAWG subgroups, by the
absence of analysis underlying various working group and subgroup activities and by the
absence of effectiveness evaluation as a core component of the working group's
activities.

First, we suggest that the MAWG efforts be guided by an analysis of the causes
for market analysis successes and failures in the past. What are the major market conduct
problems over the past 15 years and how were they identified? What did regulators do
that contributed to identification of market conduct problems? What did regulators fail to
do in those instances where market conduct problems surfaced from other sources?

The thrust of the MAWG activities is to make market conduct regulatory efforts
both more efficient (identify emerging problems to focus resources more efficiently) and
more effective (better identify and address market conduct problems). Consequently,
every aspect of the MAWG activities should be guided by historical and ongoing
evaluations of what works, what doesn't and what is the most cost-effective approach.
Such an evaluation is not only necessary to guide the initial MAWG efforts, but must be
incorporated into all ongoing MAWG products.

Second, on several occasions over the past 15 months, I have been told by
different subgroups that my comments should be directed to another subgroup or to the
working group itself. For example, Bob Wake told me yesterday that my comments on
the types of data that should be discussed in the market analysis how to guide were
misdirected because the market analysis handbook subgroup was working with "current
data" only.

What is "current data?" Apparently, "current data" refers to information currently "available" to regulators. (My suggestion for collecting and reviewing underwriting guidelines, for example, has been routinely deflected by the argument that not all states collect underwriting guidelines.) The problem with this explanation is that consumer complaint data is offered as the centerpiece of "current data," despite the fact that there is no consistent set of information across the states that is complaint data.

My purpose is not to argue against including complaint data in the how-to guide, but to suggest that a procedure be developed to identify data sources for consideration, evaluate the cost-effectiveness and feasibility of those data sources for market analysis and subsequent incorporation of new data elements into the how-to guide

In my view, the prioritization of data elements for inclusion in the how to guide – and, consequently, as a recommendation to states for collection and analysis – should be based on which data are most cost effective for market conduct data collection and analysis. Stated differently, if a state has limited resources, should those limited resources be directed at analyzing complaint data or something else? This is an example, not the real choice – but demonstrates the need for evaluating effectiveness. It makes no sense to focus on analyzing complaint data, again, for example, if there is no demonstration of the effectiveness of such analysis in market analysis. It makes no sense to focus on "current data" if no there is demonstration that current data is effective in surfacing and evaluating market conduct problems.

I therefore suggest two activities for the market analysis handbook subgroup. The first is to develop a how-to market analysis handbook <u>framework</u> to which additional data elements and instructions for those data elements can be regularly added. Along these lines, I suggest that the how-to for complaint data be completed and ready for adoption by June 2003 and, that each quarter thereafter, an additional data element is added.

The second track is to develop and prioritize a list of data elements that will be added to the handbook over time. I suggest, in addition to complaint data, page 14/market share data and financial data, the subgroup consider the following for addition to the handbook

- U/W Guidelines and Changes in U/W Guidelines
- Claim Handling Procedures and Changes in Procedures
- Third Party Black Boxes – underwriting, claim settlement
- Surveys of Market Participants (Agents, Realtors, etc.)
- Testing – Procedure used housing lenders to confirm compliance
- Market Performance Data – sales, nonrenewals, cancellations by key market segments and geographic locations
- Review of data sources and how used by insurers: credit history, mvr, clue, add, medical info report.

Finally, on the handbook and handbook subgroup, I suggest that the how-to guide develop a template for describing the acquisition, analysis and use of analytic results. For each data element, there should be a discussion that includes the following items:

- Required Resources (Computer Resources, Specific Software, Specific Technical Expertise, Estimate of Time to Acquire, Analyze and Use Data)
- How to Acquire the Data
- Methods of Analysis (Specific, e.g., what statistics used, what statistical techniques used)
- Evaluation of Results (What to look for in the data analysis results)
- Translating Analysis Results into Market Regulation Activities (What results trigger a market regulatory activity, what results trigger further analysis of additional information?
- Evaluation Of The Data Element For Effectiveness In Market Analysis (How effective was the analysis of the data element in identifying problems, were there a large number of false positives, i.e., indicated potential problems that were not problems)

I am not sure which subgroup should have this responsibility – probably the Handbook subgroup at some point – but as data elements are added to the handbook over time, instructions should be added to explain how to do a multi-variate analysis – how to combine the analysis of many data elements to better identify market conduct problems and focus market regulatory efforts. This type of integrated analysis of all available data elements should come after the handbook subgroup has successfully developed the modules for at least three or four individual data elements.

Moving on to another topic, the Market Regulation (D) Committee should establish minimum necessary market regulation resources and where those resources should be focused. My suggestion is that market data collection and market analysis should be the top priority for a regulator's allocation of resources. Even if the regulator does not have the resources to address the problem or problems identified, it is important to identify problems and work with others who can.

Finally, the MAWG should develop the tools to allow a regulator to focus on largest problems and not necessarily the largest companies. Regulators need a tool or tools to differentiate between largest companies and largest problems. This is key to both the effectiveness and efficiency of market regulation.

Sincerely,

Birny Birnbaum
Executive Director