

# The Center For Economic Justice

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March 24, 2003

Charles Rapacciuolo  
Chair, Review Standards Checklists Subgroup

Re: Comments for March 26, 2003 Conference Call

Dear Charlie and other subgroup members:

We write with comments on the documents distributed for discussion at the March 26, 2003 conference call of the Review Standards Checklists Subgroup.

## Draft Minutes of the March 8, 2003 Meeting

I request your consideration of the following changes to the minutes, which, in my view, better reflect the comments I made at the meeting.

1. Replace the first sentence of the second paragraph on page 1 with:

~~A consumer advocate, Birny Birnbaum (Center for Economic Justice) expressed reservations about the pilot program, noting that there was no requirement that the pilot states perform a thorough review of each self-certified filing to best determine compliance.~~ Birny Birnbaum (Center for Economic Justice), one of the NAIC funded consumer representatives, expressed concern that the pilot project would not answer the key question of concern to consumers and many regulators – whether a self-certification program would lead to filings that complied with state laws. He stated that the proposed method of evaluation of the self-certification pilot program did not provide for verification of such compliance and suggested that, for purposes of the pilot program, a thorough review of each self-certified filing is necessary to test and verify the effectiveness of self-certification.

2. Modify the first sentence of the last paragraph on page 1:

Mr. Birnbaum further explained that he was not opposed to the self-certification concept and in fact applauded the pilot if it would demonstrate the effectiveness of self-certification in generating filings that complied with state law. ~~Mr. Birnbaum stated his view that such a demonstration required~~ ~~it would just require~~ a thorough review of each filing during the pilot program.

## **Speed to Market – Self Certification Pilot Instructions**

We think the proposed changes improve the document and likelihood of success in the pilot program.

### **Evaluation Data – “Metrics”**

We suggest that participating states provide a complete list of filings that are part of the pilot program with data about each filing. Each filing would be a record (or row in a spreadsheet) and each record (filing) would contain the data elements listed below (columns in a spreadsheet).

Two major benefits arise from the collection of detailed information instead of the summary data tables proposed.

1. Allows greater variety and depth of analysis and evaluation. In addition to the basic metrics, a complete list of filings with associated data will enable regulators to answer questions like:
  - Does self-certification work best for certain types of filings or certain lines of insurance?
  - Did one state identify problems that another state did not?
  - Is there a company that has problem filings across states?
  - Are individual state outcomes a result of the companies filing in that state (as opposed to the nature of the state’s review)?
  - Are there problematic lines or sublines for companies (perhaps indicating a need to improve the checklist for that line)
  - Are particular reviewers good at particular types of review?
  
2. Avoids problems caused by inconsistency in understanding of summary terms and provides for absolute consistency of analysis across states. NAIC staff can ensure that filings, filing outcomes, time frames are calculated precisely the same way across states. Further, provision of a complete list of filings with summary analyses by NAIC staff eases the burden on states and provides most economical use of resources. While states may not have information in precisely the format below (or whatever similar format adopted by the working group), each state will have to produce similar information to generate the currently proposed summary tables. Provision of a complete list of filings should remove one step for states, while ensuring better cross-state comparisons.

For each pilot filing, we suggest the following data elements. We understand that this list needs some fine-tuning for consistency with other speed to market activities.

1. State
2. Filing ID #
3. Company
4. Line
5. Subline
6. Type (May not be needed if pilot is limited to form filings. If that is the case, may want to identify filings as new form, revised form or new endorsement. If other than form filings will be included, should identify Rate, Form, Manual, Rate and Form, Rate and Manual, Form and Manual, Rate Form and Manual)
7. Date Received (Need to provide a consistent definition across states)
8. Reviewer Cursory (Code for State)
9. Date Cursory Review Initiated
10. Date Cursory Review Completed
11. Number of Errors Identified in Cursory Review
12. Number of Violations Identified in Cursory Review
13. Cursory Review Action Taken
14. Data Cursory Review Action Taken
15. Reviewer Hybrid (Code for State)
16. Date Hybrid Review Initiated
17. Date Hybrid Review Completed
18. Problems Identified
  - 0-none
  - 1 – failure to include required policy provisions
  - 2 – include prohibited policy provisions
  - 3 – other
19. Hybrid Review Action Taken
20. Reviewer Thorough (Code for State)
21. Date Thorough Review Initiated
22. Problems Identified Through Review
  - 0-none
  - 1 – failure to include required policy provisions
  - 2 – include prohibited policy provisions
  - 3 – other
23. Number of Problems Identified From Thorough Review
24. Problems Identified From Other Sources
  - 0-none
  - 1 – failure to include required policy provisions
  - 2 – include prohibited policy provisions
  - 3 – other
25. Number of Problems Identified From Other Sources
26. Information Requested from Company (yes or no)

27. Date Thorough Review Completed
28. Thorough Review Action Taken
29. Involuntary Remedies
30. Voluntary Remedies

There is no data element to identify non-pilot filings. This will be one piece of summary information states need to provide, although it is unclear how this information will be used in evaluating the self-certification pilot.

My recommendation is not that all this detailed information be made available to the public. Rather, this is the template for data collection by the states and states would be able to share this information with one another and the NAIC under confidentiality agreements. The NAIC would then be able to perform the analyses on the data and produce summary reports, similar to the metrics spreadsheet already proposed, for public consumption.

It is necessary to provide more detailed data than currently proposed in the metrics spreadsheet for a useful evaluation of the pilot program. Suppose that the pilot program turns yields a number of filing errors and violations. There would be a big difference in evaluative conclusions if those errors came from just one or two companies as opposed to numerous companies or if the errors were concentrated in certain lines and states.

We hope you find these suggestions useful. Thanks for your consideration.

Sincerely,

Birny Birnbaum  
Executive Director