

## Comments of the Center for Economic Justice on the October 21, 2015

### **Market Regulation Accreditation Program Proposal for Implementation**

#### **Current Charge of the Working Group**

The Market Regulation Accreditation (D) Working Group will:

Develop a formal market regulation accreditation proposal for consideration by the NAIC membership that provides recommendations for the following: 1) accreditation standards; 2) a process for the state implementation of the standards; 3) a process to measure the states' compliance with the standards; and 4) a process for future revisions to the standards.

As per the charges adopted for the Market Regulation Accreditation (D) Working Group, the following is a draft proposal for charges 2 through 4.

#### **Implementation Proposal**

- Upon adoption/approval of the first tier accreditation standards by the NAIC Membership, each ~~participating~~ jurisdiction interested in participating in the accreditation program will begin implementation. No later than two weeks prior to the 2016 and 2017 NAIC Fall National Meetings, each participating jurisdiction will submit a self-assessment that outlines the progress achieved towards implementation of the first tier market regulation accreditation standards. The self-assessment will follow a formatted checklist to be designed by and finalized by the Market Regulation Accreditation (D) Working Group no later than March 31, 2016. (Note: This timeframe seems unrealistic. In addition to the significant amount of time necessary to craft and vet this checklist, the first national meeting in 2016 is early April. This means that adoption by the D Committee and Exec Plenary would have to be via conference calls a week prior to the national meeting to meet the March 31 date. CEJ suggests that finalizing the check list by the Spring National meeting will be a huge challenge.) The self-assessment will be submitted to NAIC Staff and peer-reviewed by a committee appointed by the Market Regulation Accreditation (D) Working Group. (Note: How does this process of NAIC staff and a subgroup of the MRA Working Group tie into the proposal below? The proposal below sets out different groups for review than those listed in this paragraph. CEJ suggests following the procedure below, when adopted.)
- No later than two weeks prior to the 2018 NAIC Summer National Meeting, each participating jurisdiction will submit a self-assessment to NAIC Staff to be peer-reviewed by a committee appointed by the Market Regulation Accreditation (D) Working Group. NAIC staff will use applicable monitoring tools, including MAWG minutes and those tools available through the NAIC Market Information Systems to verify self-assessment information reported by the participating

jurisdictions. NAIC Staff may use additional forms of verification deemed necessary, such as interviews or on-site visits. (Note: First it is unclear why two weeks prior to the 2018 Summer National Meeting is the date selected. This will clearly not provide sufficient time for review prior to that Summer Meeting. Second, As with the prior paragraph, this proposal sets out different groups for review than those in the proposal below. CEJ suggest following the procedures from the proposal below, when adopted.)

- During implementation, participating jurisdictions may request peer review and guidance. To the extent necessary to accommodate such requests for guidance, NAIC staff may work with seasoned regulators to assist in meeting the needs of such requestors. (Note: it would not make sense for peer review and guidance aimed at meeting accreditation standards be provided by individuals different than those performing the accreditation review. Hopefully, the accreditation review team will include NAIC staff and others experienced in evaluating accreditation compliance so these folks can provide the peer review and guidance anticipated in this paragraph.
- After the 2018 NAIC Summer National Meeting, each jurisdiction can apply for accreditation. The Independent Market Regulation Accreditation Team shall conduct the accreditation reviews. The Team shall include no more than five individuals, a majority of which shall be independent of state insurance departments and the NAIC. The remaining Team members shall be staff of the NAIC. The Team shall provide its accreditation review to a new~~An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team) will conduct the accreditation reviews. A new~~ NAIC Market Regulation Standards and

Accreditation Committee, which, based upon the Team's report, will determine whether a jurisdiction meets the accreditation standards. Members of that Committee shall be appointed annually by the NAIC Officers. Each participating jurisdiction shall subsequently be reviewed every 3 years to assess that jurisdiction's ongoing compliance with the accreditation standards.

- Future revisions of the market regulation standards will be made from time to time by the Market Regulation Accreditation (D) Working Group with approval of the D Committee and NAIC Membership. New standards will be ~~added only as necessary and~~ added no more frequently than once per year. Revised sets of standards will constitute a new "accreditation tier". An accredited jurisdiction that complies with a previous tier of standards will not lose that previous accreditation tier due to failure to meet a subsequent tier of accreditation standards. The initial accreditation tier shall be Tier 1.0.

Below is the implementation plan that is included in the Market Regulation Accreditation Proposal. Note: How does the above relate to the below?

### **Who will Perform Market Regulation Accreditation**

A new NAIC Market Regulation Standards and Accreditation Committee will determine whether a jurisdiction meets the accreditation standards based upon the report of the Independent Market Regulation Accreditation Team. Members of that Committee shall be appointed annually by the NAIC Officers through the normal NAIC committee appointment process. Discussions of state accreditation matters will be held in regulator-only sessions at NAIC national meetings to protect the states, regulators, and regulated entities from disclosure of confidential information.

Review of a jurisdiction's compliance with accreditation standards shall be performed by a team of individuals with expert knowledge of and experience with market regulation and accreditation standards. This team of no more than five individuals shall be called the Independent Market Regulation Accreditation Team and shall consist of a majority of individuals independent of state insurance departments and the NAIC. The remaining Team members shall be staff of the NAIC

### **How The Market regulation Accreditation Program will Work**

The proposed Market Regulation Accreditation Program establishes requirements under which a state insurance department may seek and maintain accreditation. Under this proposal, a jurisdiction's accreditation or non-accreditation in the Market Regulation Accreditation Program will not impact the status of a jurisdiction's accreditation or non-accreditation under the Financial Regulation Standards and Accreditation Program or any other Accreditation program that may be adopted by the NAIC.

States will have 2016 to assess their compliance with the proposed standards. The

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~~Independent Market Regulation Accreditation Team An NAIC Review Team (similarly constructed as the Financial Regulation and Accreditation Standards Accreditation Review Team)~~ will begin accreditation reviews in 2017. Each jurisdiction would then be reviewed every 3 years to assess that jurisdiction's ongoing compliance with the accreditation standards.

Accredited jurisdictions will be required to submit an annual self-evaluation to the Market Regulation Standards and Accreditation Committee (“Committee”). If the ~~Committee NAIC Review Team~~ finds during the annual self-evaluation that a jurisdiction no longer meets the accreditation standards, the Committee will identify the deficiencies and provide the jurisdiction with no more than nine months to address the deficiencies. During the remediation period, a jurisdiction’s accreditation will remain in place. If, after the remediation period has expired, the jurisdiction no longer meets the accreditation standards, the Committee shall revoke the jurisdiction’s accreditation.state’s accreditation may be suspended or revoked. The ~~Market Regulation Standards and Accreditation~~ Committee will consider any such action on a case-by-case basis, including an assessment of any mitigating factors that warrant further inquiry or indicate, for example, that continued accreditation should be conditioned upon implementation of a satisfactory remedial plan. A jurisdiction ~~state insurance department also~~ may voluntarily withdraw from the accreditation program.