

**Title 20—DEPARTMENT OF INSURANCE
Division 100—Insurer Conduct
Chapter 8—Market Conduct Examinations**

PROPOSED RULE

20 CSR 100-8.002 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to insurers and other companies transacting business in the state and examiners, analysts and other staff within the division of insurance market regulation engaged in market conduct actions, and shall be read together with Chapter 536, RSMo.

(2) Definitions. As used in this chapter, the following terms shall mean:

(A) "Company", any person as defined by section 374.202.2.(1), RSMo;

(B) "Complaint", a written or documented oral communication primarily expressing a grievance, meaning an expression of dissatisfaction with a specific insurance company or producer;

(C) "Comprehensive market conduct examination", a review of one or more lines of business of a company that includes a review of a majority of the specified business activities occurring at a company: underwriting and rating, tier classification, marketing and sales, complaint handling operations or management, advertising materials, licensing, policyholder services, non-forfeitures, claims handling, policy forms and filings, and compliance procedures and policies;

(D) "Department", the department of insurance, financial institutions and professional registration;

(E) "Desk examination", a targeted examination that is conducted by an examiner at a location other than the company's premises. A desk examination is usually performed at the department's offices with the insurer providing requested documents by hard copy, microfiche, discs, or other electronic media, for review;

(F) "Director", the director of the department of insurance, financial institutions and professional registration;

(G) "Division", the division of insurance market regulation;

(H) "Examiner", any individual having been authorized by the director to conduct a market conduct examination under sections 374.202 to 374.207, RSMo;

(I) "Insurer", any person as defined by section 374.202.2.(5), RSMo;

(J) "Market analysis", a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, required reports and other sources in order to develop a baseline and to identify patterns or practices of insurers or companies licensed to do business in this state that deviate significantly from the norm or that may pose a potential risk to insurance consumers;

(K) "Market conduct action", any of the full range of activities that the director may initiate to assess the market and practices of individual insurers or companies, beginning with market analysis and extending to examinations. The director's activities to resolve an individual consumer complaint or other reports of a specific instance of misconduct are not market conduct actions for the purposes of this chapter;

(L) "Market conduct examination", the examination of the insurance operations of an insurer or company licensed to do business in this state in order to evaluate compliance with the applicable laws and regulations of this state. A market

conduct examination may be either a comprehensive examination or a targeted examination. A market conduct examination conducted under sections 374.202 to 374.207, RSMo, is separate and distinct from a financial examination of an insurer, but may be conducted at the same time;

(M) "Market conduct surveillance personnel", those individuals employed or contracted by the director to collect, analyze, review, examine or act on information on the insurance marketplace, which identifies pattern or practices of insurers and other companies;

(N) "National Association of Insurance Commissioners" or "NAIC", the organization of insurance regulators from the fifty states, the District of Columbia, and the four United States territories;

(O) "NAIC market conduct uniform examination procedures", the set of guidelines developed and adopted by the NAIC designed to be used by market conduct surveillance personnel in conducting an examination;

(P) "NAIC Market Regulation Handbook", a handbook, developed and adopted by the NAIC, or successor product, which:

(a) Outlines elements and objectives of market analysis and the process by which states can establish and implement market analysis programs; and

(b) Establishes guidelines for market conduct surveillance personnel examination practices;

(Q) "NAIC standard data request", the set of field names and descriptions developed and adopted by the NAIC for use by market conduct surveillance personnel in an examination;

(R) "On-site examination", an examination conducted at the company's home office or the location where the records under review are stored;

(S) "Targeted examination", a for cause review of either a specific line of business or specific business practices, including but not limited to underwriting and rating, tier classification, marketing and sales, complaint handling operations or management, advertising materials, licensing, policyholder services, non-forfeitures, claims handling, policy forms and filings or compliance procedures and policies. A targeted examination may be conducted by desk examination or by an on-site examination;

(T) "Third party model or product", a model or product provided by an entity separate from and not under direct or indirect corporate control of the insurer or company using the model or product; and

(U) "Warrant", a written order of the director commanding the division of insurance market regulation to conduct a market conduct examination.

AUTHORITY: sections 374.045, RSMo 2000, 374.185, RSMo 2007, 374.202 to 374.207, RSMo 2000.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing will be held on this proposed rule at 9 a.m. on June 12, 2008. The

public hearing will be held at the Harry S Truman State Office Building, Room 530, 301 West High Street, Jefferson City, Missouri. Opportunities to be heard at the hearing shall be afforded to any interested person. Interested persons, whether or not heard, may submit a written statement in support of or in opposition to the proposed rule, until 5:00 p.m. on June 12, 2008. Written statements shall be sent to Tamara W. Kopp, Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

SPECIAL NEEDS: If you have any special needs addressed by the Americans With Disabilities Act, please notify us at (573) 751-6798 or (573) 751-2619 at least five (5) working days prior to the hearing.