

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

PROPOSED RULE

20 CSR 100-8.014 Collaborative Actions

PURPOSE: This rule implements the purposes of section 374.185, RSMo, and establishes relevant standards for the director in applying the discretion authorized in issuing warrants for market conduct examinations pursuant to section 374.202 to 374.207, RSMo, when other states are considering a market conduct examination regarding the same company or have recently issued a market conduct report regarding the same company.

(1) The director is responsible for market regulation of insurers and other companies for Missouri policyholder protection and shall utilize collaborative market conduct actions with other states to further the purposes of section 374.185, RSMo. In furtherance of such purposes and to provide uniform standards designed to avoid arbitrary or capricious use of discretion in issuing warrants for market conduct examinations, the director shall apply the following standards in evaluating factual support for a warrant when another jurisdiction is considering conducting a market conduct examination or has issued a market conduct report for an examination that has been conducted within the last three (3) years:

(A) In lieu of issuing a warrant for a market conduct examination the director may delegate responsibility for conducting an examination of a domestic company, foreign company, or an affiliate of a company to the insurance commissioner of another jurisdiction if that insurance commissioner agrees to accept the delegated responsibility for the examination, and the domestic company, foreign company, or affiliate has a significant number of policies or significant premium volume in that jurisdiction. If the director elects to delegate responsibility for examining a company, the division shall accept a report of the examination prepared by the insurance commissioner to whom the responsibility has been delegated.

(B) In lieu of requesting a warrant by the director and conducting a market conduct examination of a company, the division of insurance market regulation shall accept a report of a market conduct examination on such company prepared by the insurance commissioner of the company's jurisdiction or state of domicile or another jurisdiction state if the director has determined:

1. The laws of that jurisdiction applicable to the subject of the examination are substantially similar to those of this state;
2. The examining jurisdiction has a market conduct analysis and examination system comparable to the system required under chapter 7 and this division; and
3. The examination from the other jurisdiction's commissioner has been conducted within the past three (3) years.

(C) Notwithstanding, if the insurance commissioner to whom the examination responsibility was delegated, or the report of a market conduct examination prepared by the insurance commissioner of another jurisdiction, did not evaluate the specific area or issue of concern to the director or a specific requirement of Missouri law, the director may issue a warrant for a targeted examination to evaluate that specific area or issue of concern.

(2) Subject to a determination under this rule, if a market conduct examination conducted by another jurisdiction results in a finding that an insurer or other company should modify a specific practice or procedure, the director shall accept documentation that the company has made a similar modification in this state, in lieu of initiating a market conduct action or examination related to that practice or procedure. In order to protect the interests of consumers, policyholders, and claimants of this state, the director may initiate such other enforcement action as is necessary to assure compliance with the laws and regulations of this state. The director may require other or additional practice or procedure modifications as are necessary to achieve compliance with specific state laws or regulations, which differ substantially from those of the examining jurisdiction.

(3) If at any time prior to or during an examination it is brought to the attention of the examiner-in-charge that the insurer or other company has modified such practice or procedure as a result of a market conduct action taken by the commissioner of another jurisdiction, the examiner-in-charge shall accept documentation that the company has satisfactorily modified the practice or procedure and made similar modification to such practice or procedure in this state. In order to protect the interests of consumers, policyholders, and claimants of this state, the director may initiate such other enforcement action as is necessary to assure compliance with the laws and regulations of this state.

(4) If the insurer or other company to be examined is not a domestic company, the director, upon issuance of an examination warrant shall communicate with and may coordinate the examination with the insurance commissioner of the jurisdiction or state in which the company is domiciled.

AUTHORITY: sections 374.045, RSMo (2000), 374.185, RSMo(Supp. 2007) and 374.205, 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.