

**RCW 48.37.040 Market analysis procedures—Commissioner's duties—**

**Rules.** (1) (a) The commissioner shall collect and report market data information to the NAIC's market information systems, including the complaint database system, the examination tracking system, the regulatory retrieval system, other successor systems, or to additional systems as the commissioner determines is necessary for market analysis.

(b) Market data and information that is collected and maintained by the commissioner shall be compiled and submitted in a manner that meets the requirements of the NAIC and its systems.

(2) (a) Each entity subject to the provisions of this chapter shall file a market conduct annual statement or successor product, in the general form and context, in the time frame required by, and according to instructions provided by the NAIC, for each line of business written in the state of Washington. If a particular line of business does not have an approved market conduct annual statement form, the company is not required to file a report for that line of business until such time as [the] NAIC adopts an annual statement form for that line of business.

(b) The commissioner may, for good cause, grant an extension of time for filing a market conduct annual statement, if written application for extension is received at least five business days before the filing due date. Any insurer that fails to file its market conduct annual statement when due or by the end of any extension of time for filing, which the commissioner in his or her sole discretion may have granted, is subject to the penalty and enforcement provisions applicable to the insurer as found in the Washington insurance code.

(3) (a) The commissioner shall gather information from data currently available to the commissioner, surveys, required reports, information collected by the NAIC, other sources in both the public or private sectors, and information from within and outside the insurance industry. The commissioner may request insurers to submit data and information that is necessary to conduct market analysis and shall adopt rules that provide for access to records and compliance with the request, that do not cause undue burden or cost to the consumer or insurer.

(b) The information shall be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review insurers or practices that deviate significantly from the norm or that may pose a potential risk to the insurance consumer. The commissioner shall use the NAIC market regulation handbook as one resource in performing this analysis.

(c) The commissioner shall adopt by rule a process for verification by an insurer of Washington state-specific complaint information concerning that insurer before using the complaint information for market conduct surveillance purposes or transmitting it to NAIC databases after July 1, 2007.

(4) (a) If the commissioner determines, as a result of market analysis, that further inquiry into a particular insurer or practice is needed, the following continuum of market actions may be considered before conducting a market conduct examination. The commissioner shall not be required to follow the exact sequence of market conduct actions in the continuum or to use all actions in the continuum. As part of the chosen continuum action, the commissioner must discuss with the insurer the data used to choose the option and provide the insurer

with an opportunity for data verification at that time. These actions may include, but are not limited to:

- (i) Correspondence with the insurer;
- (ii) Insurer interviews;
- (iii) Information gathering;
- (iv) Policy and procedure reviews;
- (v) Interrogatories;
- (vi) Review of insurer self-evaluation and compliance programs.

This may include consideration of the insurer's membership in a best practices organization, if the commissioner is satisfied that the organization's qualification process is likely to provide reasonable assurance of compliance with pertinent insurance laws;

- (vii) Desk examinations; and
- (viii) Investigations.

(b) Except in extraordinary circumstances, the commissioner shall select the least intrusive and most cost-effective market conduct action that the commissioner determines will provide the necessary protections for consumers.

(5) The commissioner shall take those steps reasonably necessary to eliminate duplicative inquiries. The commissioner shall not request insurers to submit data or information provided as part of an insurer's annual financial statement, the annual market conduct statement of the NAIC, or other required schedules, surveys, or reports that are regularly submitted to the commissioner, or with data requests made by other states if that information is available to the commissioner, unless the information is state specific. The commissioner shall coordinate market conduct actions and findings with other state insurance regulators.

(6) For purposes of conducting an examination or other market conduct action on an insurer, the commissioner may examine or conduct a market conduct action on any managing general agent or other person, insofar as that examination or market conduct action is, in the sole discretion of the commissioner, necessary or material to the examination or market conduct action of the insurer. [2007 c 82 § 6.]