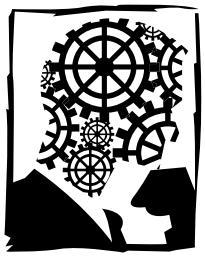
The Regulator™
INSURANCE REGULATORY EXAMINERS SOCIETY

# IN THIS ISSUE: Analyzing Market Conduct Efforts



## A new mindset needed to reinvent market regulation

*by Birny Birnbaum*
Center for Economic Justice

The good news is that market conduct regulation is finally getting long-overdue attention from insurance commissioners and legislators. The bad news is that much of that attention is not directed at improving the ability of market regulation personnel to identify market problems and protect consumers.

We have seen lots of activity on market regulation issues. The NAIC has embarked on a set of initiatives to improve communication among states and between states and insurers on market conduct examinations, to increase the uniformity of market regulation activities among the states and to improve the effectiveness and efficiency of market regulation activities.

The National Conference of Insurance Legislators (NCOIL) is developing a model law on market regulation activities. At the federal level, the Government Accounting Office (GAO) has issued a report on market regulation activities [see accompanying story] and hearings have been held before Congress.

If you were to believe what insurance companies are telling NCOIL and Congress, the market conduct examination system could be a movie "Regulators Gone Wild." Insurers complain about (in their view) unwarranted examinations, redundant exams, unreasonable costs, examinations dealing with minutiae and regulators using exams to punish insurers. The insurers ask policymakers to make the market conduct examination system more efficient and more uniform and to place requirements on regulators to protect insurers from unfair market conduct examination practices.

Alarmingly, the insurer proposals for a market conduct model law have little to do with efficiency or uniformity and more to do with creating impediments for regulators to carry out examinations and enforcement actions. One industry proposal would give insurers the right to demand an arbitration proceeding before a regulator could

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## GAO: Uniformity lacking

### 'Market Analysis" is the new standard for tracking companies

EDITOR'S NOTE: *In September 2003, the General Accounting Office (GAO) issued a report examining state insurance departments' market conduct and market analyses operations. This article was excerpted from testimony delivered to Congress by Richard J. Hillman, GAO's Director of Financial Markets and Community Investment, prior to the release of the full report.*

In the absence of generally accepted standards, individual states decide how they will do market analysis and perform market conduct examinations. While all states do market analysis in some form, few have established formal programs that look at companies in a consistent and routine manner. States also have no generally agreed upon standards for how many exami-

*continued on page 9*

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# From the President

## Only change is certain

It's been said that the only thing certain is change. That aphorism seems especially suitable for insurance regulation right now. Our challenge is not only to address change, through the various regulatory modernization efforts, but also to do so rapidly.

The development of effective market analysis and use of such analysis to improve market regulation are changes we must implement. The use of market conduct-related activities, as alternatives to an examination, is another.

In this issue of *The Regulator,* consumer advocate Birney Birnbaum makes a thought-provoking case for reinventing market conduct regulation. You'll also find an excerpt from the Government Accounting Office's recent report on state insurance departments' market analysis and market conduct operations. GAO, as many of you may know, is strongly urging state regulators to seek out new ways to oversee the insurance marketplace.

As insurance regulators begin to develop their market conduct initiatives, the sharing of techniques, methods, and training among states will be essential. The upcoming IRES Career Development Seminar (CDS) in Denver is one forum that can help facilitate such efforts.

The sharing of techniques and methodologies is crucial for developing common standards for market analysis, alternative market conduct approaches and effective market conduct examinations. Discussing our respective successes and failures in such forums as the CDS will help lead to common standards and best practices that can be formalized by the NAIC and included in its Market Analysis Handbook and Market Conduct Examiners Handbook.

It is important for those of us in the trenches to see the "big picture" of where market regulation is headed and to understand how the various elements of change will interact to bring about a more effective market regulation process.

*continued on next page*

## President's Column ...

Unfortunately the dust hasn't settled yet with regard to designing a uniform, effective and essential market regulation system. As regulators, we don't have the luxury of time.

We must start the process of overhauling our market regulation programs now. Reliance on fellow regulators, the NAIC and organizations such as IRES will be the keys to our success. At the same time, we must keep in mind that providing protection and assistance to insurance consumers should be our utmost goal.

The challenges that change poses to insurance regulators also apply to IRES itself. IRES's most valuable assets for adapting to change are its members. Keeping IRES a strong and viable organization will take commitment from you.

As an IRES member, you must stay involved with the organization. I urge you to bring your ideas and talents to the CDS this summer. You may also want to assist one of the various IRES committees. As with most organizations, you'll find that the more you put into IRES, the more you'll benefit from it.

Bruce Ramge, CIE
IRES President

## Welcome, new members

Denise Cassand, LA
Linda S. Crowder, IL
Melodi Crowson, LA
Malissa Drake, LA
Angela J. King-Boyd, AIE, DC
Marcia M. Kramer, KS
Carol L. McDermitt, NE
Joann Neumann, DE
Jerry D. Paugh, NM
James Peacock, IL
Ray Pugliese, PA
Edwin Pugsley, NH
Stacy L. Rinehart, KS
Mark A. Smith, IL
Julie A. Stell, KS
Kathy S. Talley, AL
Robert M. Tomlinson, KS
Jamie Tripp, IL
Craig S. Van Aalst, KS
Mary L. Weiss, CA

# C.E. News

**Have you paid your IRES dues?**
Don't risk the suspension of your designation.

**Important changes for credit hours**
As of Jan. 1, 2004, up to 3 hours of computer IT (Information Technology) courses can be used towards continuing ed as long as it is related to the work of the regulator. (i.e., "Fundamentals of Windows," "Word Processing," "Using Excel Spreadsheets")

For a computer-training program to qualify for full credit, it must be demonstrated that the course concentrates over 50% of the content on insurance specific applications. (i.e., NAIC sponsored "ACL for Windows")

**Need 15 CE credits?** Consider coming to the IRES Career Development Seminar in Denver, August 15-17, 2004. (see the registration form in this issue) Those who stay for the full seminar and pick up their attendance certificate will receive 15 continuing ed credits.

**LOMA course changes** — LOMA has announced course changes that will take effect on Jan. 1, 2005. Watch *The Regulator* and the Web site in the coming months for changes to our accreditation form.

Next compliance period is 9/1/03 - 9/1/04
Reporting deadline is Oct. 1, 2004

N·I·C·E

# *Omigod!* State guaranty funds in crisis! Or are they?

*By Scott Hoober*
Special to the Regulator

Since most consumers never think about insurance at all, except when they have a claim, it's awfully hard to imagine them thinking about what insurance companies do when they have a claim. Just try explaining reinsurance to the clerk at your dry cleaner.

Or guaranty funds.

Even among many regulators, state guaranty funds probably fly far below the radar. After all, by and large they're quasi-governmental entities that are separate from the insurance department, so it's safe to ignore them.

Until they run into trouble. Like today, with the losses from Reliance Insurance Co. alone pushing past $3 billion, and other, smaller insolvencies tugging at our sleeves as well.

If you read the trade press, you know that guaranty funds are in big trouble. But are they really? Or are we just talking about some kind of cyclical thing? After all, hard markets follow soft, as regularly as spring follows winter, so why wouldn't we expect to see large insolvencies recur every decade or two?

The real question is whether the funds are handling the latest round of liquidations, or whether there's some sort of systemic rot at work.

Here's the good news: There is indeed a cycle. The last time we saw a round of severe liquidations among P&C companies was nearly two decades ago. The bad news? When Reliance came along, with its 144,000 claims, guaranty funds were still paying long-tail claims from that 1984-87 round of insolvencies.

**P&C vs. L&H**

For all that, the guaranty system is far from insolvent itself. By one estimate, on the P&C side alone, it has $1.25 billion in obligations vs. a capacity of $7 billion. Of course, that $7 billion is a nationwide number, while the obligations tend to be concentrated in a relatively few states.

Even before Reliance and several other recent insolvencies, the health of this backup system was clearly an issue. In 2001, total payouts stood at $734 million, the largest number since 1987.

"These costs are particularly insidious because they represent overhead that a company cannot avoid," said Roger Kenney, associate vice president of the Property Casualty Insurers Association of America, "and has absolutely no control over."

And even Dale Stephenson, who as executive director of the National Conference of Insurance Guaranty Funds is positive about the future, admits these are tough times.

"We are facing stress that we have never seen before," he said. "That's a fact.

"We're seeing record assessments, and a number of guaranty funds — right now still a fairly small number — are having to deal with legislative remedies to get more money."

Stephenson's association has the state guaranty funds as its members, with an emphasis on P&C carriers. And he's been fielding most of the press calls, since P&C is where the insolvencies have tended to be of late.

"Right now, this is definitely a P&C issue," he said. "It's a difference in the cycles, and we've seen that historically. [L&H companies'] time might be coming. In fact, they had their time, 7-8 years ago."

Peter Gallanis, executive director of the L&H counterpart to Stephenson's group, the National Organization of Life and Health Guaranty Associations, is delighted to be left out of the current round of trash talk.

"The short version is that on the life and health side of the street, there is no trouble that the guaranty system is facing," Gallanis said.

"Over the past three or four years, we've been averaging something under $100 million per year for assessments to protect policyholders, compared to a systemwide capacity of about $6 billion. We have no problems doing anything that we need to do.

"The situation is a little different on the P&C side," Gallanis added. "They've been squeezed in one or two states, but they've figured out a way to deal with those problems."

Both association executives agree that the current situation isn't nearly as bad as press reports have made it out.

Yet there do seem to be some structural changes in recent years that have put added stress on the guaranty funds.

**Sophisticated buyers**

For one thing, back when the funds were first established, decades ago, the idea was to help those that couldn't help themselves, primarily homeowners and motorists. Individuals who buy insurance to

protect their major assets, the thinking went, have a right to expect their claims to be paid no matter what, while large commercial customers were presumed to be able to better look out for themselves.

Nowadays, those sophisticated buyers are getting in line too — and in some cases trying to jump ahead of the individuals when it comes to seeking reimbursement.

The recent spate of insolvencies has centered on workers' compensation insurers. And one of the trends in comp, aimed at cutting premiums, has been high-deductible policies. In a number of cases, deductibles are so high that some large employers are virtually self-insured.

"The work comp market had significant problems in the '80s and '90s" Stephenson said. "What happens with large deductibles is that companies — well, they're not breaking any comp laws, but they're certainly bending the hell out of them. So the premiums are down significantly, but there is in fact a first-dollar policy out there. Which is then backed up by these deductibles."

> ***"We are facing stress that we have never seen before. That's a fact."***
>
> — Dale Stephenson, executive director of the National Conference of Insurance Guaranty Funds

In the event of a claim, the insurer pays the entire amount, including the deductible, which the insured is then required to pay back to the insurer.

When the insurance company fails, the guaranty fund picks up responsibility for the entire claim, deductible and all. But the Reliance liquidator has decided that the deductibles should be paid to the insurer's estate, to be used to pay off law firms and other creditors, instead of to the guaranty fund, which would use them to pay off injured workers and motorists.

"That was never going to be an asset of the insurer," said Stephenson. "Either the company wouldn't have had to pay, or the company would have paid it and gotten it back directly from the insured."

The issue is currently before both the courts and the Legislature in Pennsylvania, where Reliance was domiciled.

The one bit of good news is that guaranty funds in that state and others where Reliance did business are currently expected to pay individual claims in full, while large, sophisticated commercial customers might receive about 50 cents on the dollar.

Full-fledged self-insureds as a rule are exempt from contributions to guaranty funds, which spreads out the assessment among fewer players (not to mention what it does to consumer perceptions).

In a few states, such as Florida, the legislature set up a separate fund just for the self-insured market. But as Florida is finding, this produces an even more thinly funded facility, and what's more, one that's aimed at losses in a riskier market. "It's particularly a problem in comp, where the employers are the ones making all the decisions, but they're not the ones who are really being protected," Stephenson said.

Even in the insured market, though, some states cap assessments at a too-skimpy 1% of premium volume, by line. Recent history shows that it takes more like 2% to do the job right, and that's where most states are.

**What to do**

In the wake of Reliance, one of the solutions to the guaranty fund "crisis" is obvious: Go into the statutes and make it clear that deductibles go to the fund, for the benefit of claimants, and not to the estate of a defunct insurer.

On top of that, states whose maximum assessment rate is low could fix that, and those with no provision for self-insured employers might want to consider creating one (perhaps by requiring them to be part of the pool, the same as real insurance companies).

If the states do that, and we simply wait for the cycle to turn, will that be enough to end the "crisis"?

NCIGF's Stephenson thinks so.

"The system is still working, and we're finding solutions," he said. "To a certain extent, right now we're having to scramble to get some of those solutions, that's a fact. But we're achieving it."

Yet there's still some dissatisfaction. Large, healthy, well-managed insurers, for instance, are known to be less than thrilled at repeatedly being forced to shell out because of mismanagement by weaker companies.

As one regulator who wished to remain anonymous put it: "Part of the rumble you're hearing out there is from some of those better-run companies who are gnashing their teeth because they're having to pay

*continued on next page*

# Are guaranty funds in trouble or does it just look that way?

*continued from page 5*

out a lot of money in assessments right now.

"They're getting a benefit in some respects," this person said. "After all, it's making the industry not look bad in the eye of the public. But a direct, bottom-line benefit — no."

Some states have noticed — and swatted down — another perceived fly in the ointment.

Most places, when a company goes under, the remaining companies offering the same line or lines are assessed, making it hard for them to estimate cash flow. In some jurisdictions, guaranty funds are prefunded. Logical, huh? Except when you look at New York, say, where the fund was raided years ago to the tune of $87 million to help balance the state's general-fund budget.

"The Virgin Islands has done it four times," Stephenson said. "Obviously it wasn't anyplace close to the dollar size [of a New York], but if you figure the percentage, it was probably significantly more than anybody else."

Some have proposed overlaying a federal guaranty system atop the current state-by-state system. It's not clear just how the proposed federal system would mesh with the state ones, and it doesn't appear that any kind of legislation will pass anytime soon. The appeal is of course cost: Based on experience with the banking industry's fund, the FDIC, assessments might be lower than they are now.

**In the states**

As with other aspects of insurance regulation, a state-by-state system makes sense because of state-by-state differences in consumers, markets and the citizens' needs and interests. In fact, it sometimes seems that the more or less one-size-fits-all guaranty funds may need some fine-tuning.

Take Alaska, for instance, a large but sparsely populated state where Fremont Indemnity represented more than 40% of the comp market before it went belly-up.

The dollar amount of Fremont's book of business might not have looked so impressive in a larger state. But in Alaska, it was a really big deal. Do small states need to account for the possibility of such a disruptive insolvency? If you answered yes, just what solution do you recommend?

"Part of it is the kind of situation that you get into at times in small states," said Stephenson. "When you have a limited number of insurers trying to penetrate that market, it's a problem. I don't know whether it's a failure. The system is still working. People are being paid."

But wouldn't it have been nice to have dodged the bullet altogether?

In retrospect, wouldn't it be nice if someone, a financial examiner, say, had spotted the incipient weakness that led to Fremont's collapse? Should examiners be extra vigilant on certain exams — smaller companies, perhaps, without the depth of management expertise of a larger one, or insurers with an inordinate amount of business in one state?

Regulators have indeed been doing more targeted exams, yet we keep seeing Fremont-like collapses. What are we missing?

Michael Moriarty, director of the capital markets bureau for the New York State Insurance Department, said during a recent NAIC meeting that regulators could do a better job of separating the wheat from the chaff.

"Most of us know who our problem companies are, and I think we should be in there once a year, or at least every couple of years," he said, "and we can free up the time by spending less time on those that are well capitalized and have good management controls."

Moriarty also proposed that state regulators should examine companies after they fail. "When an insurer goes down the tubes, there should be some type of report to institutionalize the lessons and to show the sort of things we should look for in the future," he said.

Then there's the irony of insurers being backed by a non-insurance mechanism. When insurers want to reduce their own risk, they buy a kind of insurance. Your bank accounts are backed by federal deposit insurance. Yet somehow, rather than an insurance-like system, insolvent insurers are backstopped by guaranty funds. Is the very premise faulty? Or if we do retain the present system, should we cap outlays more stringently?

We don't know. We're just asking. But with Reliance's collapse forcing the guaranty funds to pay some $8.7 billion in claims and other expenses, it sure seems like a good time to raise such questions. ■

*Automobile Insurance*

# NJ court decisions may have national ramifications

*by David F. Snyder*
Assistant General Counsel
American Insurance Association

The ongoing improvement in New Jersey's auto insurance regulatory system is nearing historic proportions. It has come about through courageous and prescient actions by Governor McGreevey, Banking and Insurance Commissioner Bakke and her staff, and the New Jersey Legislature. Less well known, but of long-term significance, is the role the courts have played in enhancing New Jersey's regulatory climate. Two recent decisions by the New Jersey Supreme Court favor cost reduction, fairness and the financial stability of the auto insurance system.


David Snyder

On February 19, the New Jersey Supreme Court in *Caviglia v. Royal Tours of America*, unanimously upheld the State's no pay/no play statutory provision against various constitutional challenges. In the case, an uninsured driver and his passenger were involved in an accident with a tour bus owned by Royal Tours of America, Inc.

The uninsured driver and his passenger attempted to sue the bus operator and owner for personal injuries. Both the trial and intermediate appellate courts found that the no pay/no play law violated the Equal Protection and Due Process guarantees of the Federal and State Constitutions. The New Jersey Supreme Court reversed those lower court decisions.

N.J.S.A. 39:6A-4.5(a) bars illegally uninsured drivers from recovering both economic and non-economic damages in automobile accident cases. The Supreme Court ruled that: "The Legislature thus gives the uninsured driver a very powerful incentive to comply with the compulsory insurance laws: obtain automobile liability insurance coverage or lose the right to maintain a suit for both economic and non-economic injuries."

Against the 14th Amendment Due Process challenge, the Justices found a rational basis for the Legislature's action (controlling insurance costs) and found no constitutionally recognized right to operate a vehicle without insurance. The Court also rejected an Equal Protection challenge finding that unlawfully uninsured drivers are not a class protected by the Federal or State Constitutions.

This decision will support cost containment efforts in New Jersey and basic fairness to law-abiding citizens. It is an eminently sensible application of constitutional principles and bodes well for similar no pay/no play legislation elsewhere.

Earlier this year, a unanimous New Jersey Supreme Court handed down another important cost-related decision. In *Vassiliu v. Daimler Chrysler Corporation, et al.*, the Court rejected efforts to trigger two liability coverage limits by refusing to consider the wrongful death action (which allows the estate to sue for damages) and survivorship action (which allows the survivors to sue) as separate actions.

Instead, the Court upheld the contractual language and found all actions arising out of the death of one person to be one action for purposes of triggering insurance coverage. The case involved a liability policy with a single limit, a liability policy with split "per person and per accident limits" and two split limit uninsured motorist policies.

The first case involved fundamental constitutional principles and is important nationally for that reason. The second case involved important national issues of contractual language application where the Court adopted the obvious meaning and intent of the language. Both decisions exhibited good sense, fairness and a keen focus on cost saving for the benefit of the public.

NOTE: The *Caviglia* decision is available online through **www.judiciary.state.nj.us/opinions/a2616-02.pdf**; a summary of the *Vassiliu* case is available on **http://lawlibrary.rutgers.edu/courts/supreme/a-63-02.opn.html**. ■

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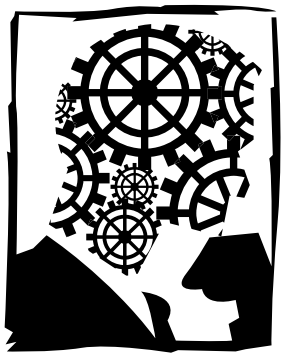
David F. Snyder is assistant general counsel for the American Insurance Association, a trade organization representing more than 300 insurance companies. Mr. Snyder previously worked for the Pennsylvania Insurance Department and other state and federal agencies.

# Birnbaum: Reinventing market conduct regulation

*continued from page 1*

take an enforcement action. Such a provision simply adds another hurdle for a regulator seeking to protect consumers.

Predictably, consumer groups like the Center for Economic Justice have a completely different view of current market regulation activities by the states. We ask, why, despite the fierce dedication of many skilled market regulation professionals, have state insurance regulators failed to identify many major market conduct problems, including race-based premium, single premium credit insurance, and insurance credit scoring? Or, why have regulators failed to identify and address a number of unfair underwriting, claims settlement and sales practices, such as the use of arbitrary computer claims settlement models and the churning of life insurance policies?



We think the failings of market conduct regulation can be traced to the tools available to market regulation personnel – or more specifically, the absence of necessary tools. For most states, the principal tool for identifying market conduct problems has been the comprehensive market conduct examination. Consequently, the problems market conduct examiners find are related to that particular tool – and the problems identified are often fairly narrow violations instead of broader market problems. The effectiveness of the examination process has also been limited by the lack of communication among states on their market regulation activities.

**Reinventing Market Conduct Regulation**

We suggest the reinvention of market regulation must start with the primary goal of improving the effectiveness of market regulation activities in identifying and stopping market conduct problems. The secondary goal – and one that follows logically from the first – is to improve the efficiency of market regulation. What benefit is a more efficient program if the major problems remain unsolved? The strategy for achieving these goals should be:

- Build on the expertise and dedication of market regulation personnel;
- Create a powerful market analysis capability; and
- Rely on market analysis to allocate and direct further examination and enforcement activities.

The first point should be obvious. The folks who know the most about market regulation issues are those who have been in the trenches for years. The second and third points emphasize the emerging role of market analysis. Market analysis is the key to improving both the effectiveness and efficiency of market regulation. With solid market analysis, regulators will do a better job of identifying market problems. And by better identifying market problems, regulators will more efficiently direct regulatory efforts towards the identified problems instead of towards comprehensive examinations. Market analysis provides market regulation personnel with an expanded set of tools.

What is market analysis? Market analysis is the collection and analysis of a broad array of company and market information to help identify market conduct problems. The key to an effective market analysis program is the collection of meaningful information and careful analysis of that information.

The initial version of the NAIC Market Analysis Handbook focuses on the analysis of complaint and financial statement data. Although complaint data and financial statement data are useful and necessary for market analysis, they are far from sufficient. Our view is that insurance regulators must have more information than currently available or currently collected for effective market analysis. We suggest that an effective market analysis program include the collection and analysis of the following types of information:

**Insurer underwriting guidelines**

Insurer underwriting guidelines are the key source of information describing insurer market strategies and the factors affecting insurance availability and affordability. Quite simply, a regulator cannot know what is going on in the marketplace without knowl-

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Birny Birnbaum is Executive Director of the Center for Economic Justice in Austin, Texas.

# GAO study: The trend toward 'market analysis'

*continued from page 1*

nations to perform, which companies to examine and how often, and what the scope of the examination should be. As a result of the lack of common standards for market analysis and the lack of consistency in the application of the guidelines for examinations, states find it difficult to depend on other states' oversight of companies' market behavior.

**Better Market Analysis Needed**

NAIC and some states have a growing awareness that better market analysis can be a significant tool for monitoring the marketplace behavior of insurance companies and deciding which insurers to examine. All states perform some type of market analysis. In many states, however, it consists largely of monitoring complaints and complaint trends, and reacting to significant issues that arise.

Three states [of the nine states] we visited — Missouri, Ohio, and Oregon — have established a proactive market analysis program. These programs for market analysis have established processes for monitoring company behavior to identify trends, companies that vary from the norm (outliers), and potential market conduct problems. In general, an established program would have dedicated staff and protocols for gathering data and conducting analysis at the department offices.

Each of the three states with an analysis process that we visited approached market analysis in a different way. Ohio's program consisted of special data calls to obtain extensive information from selected company files, and, using computerized audit tools, analyzing specific aspects of companies' operations relative to norms identified by peer analysis and to state law.

Missouri relied on routinely collecting market data from all licensed companies. Missouri has developed a market data report that companies submit as a supplement to their annual financial reports. This data is then used to evaluate market trends and conditions, as well as individual companies that are outliers.

Oregon's newly established program involved maintaining files on companies in which all available data is collected to facilitate a broad and ongoing review of company behavior. Both Ohio and Oregon told us that their market analysis programs were still in an experimental stage of development. When properly done, market analysis can allow states to focus attention on the high-risk companies rather than selecting companies for examination based primarily on criteria such as market share, which does not directly correlate to market behavior problems.

**Variations Found by State**

Each state we visited had between 900 and 2,000 licensed insurance companies. Because, in general, states do not currently depend upon other states' regulation of companies' market behavior, most states feel a responsibility for overseeing all the companies selling in their state. The impossibility of examining so many companies requires regulators to identify and prioritize which companies they will examine. The states we visited used a variety of factors to choose companies for a market conduct examination. The most commonly used factors for choosing from among the companies deemed eligible for a market conduct examination were complaints, market share, and time since the last examination.

Some states chose to do market conduct exams for only a subset of licensed companies even though other companies could comprise a majority of the insurers selling in the state. For example, of the states we visited, Arkansas focused primarily on domestic companies. In Arkansas, 245 of 1,668 licensed companies in 2001 were domestic. As a consequence, 85 percent of all the companies licensed in Arkansas in 2001 were not examined in Arkansas in spite of the fact that they may or may not have been examined by some other state.

All the states we visited limited the scope of their examinations to customers from within their particular state. That is, examiners looked only at files of state residents. Moreover, most states further limited the scope of their examinations by

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# Birnbaum: A new mindset needed for market analysis

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edge of insurer underwriting guidelines. Underwriting guidelines allow regulators to determine quickly who insurers are excluding and including and take timely steps to react to those insurer decisions.

We were stunned at one legislative hearing to hear an insurance regulator boasting how his department had allowed just one insurer to use credit scoring for rating purposes. But when the regulator was asked, don't all the other insurers use credit scoring for tier placement, the regulator replied that the department considered tier placement to be an underwriting guideline and the department does not obtain or review underwriting guidelines! Insurers have avoided scrutiny of credit-scoring practices for years simply by using credit scores for tier placement (instead of pure rating) and by increasing the number of rating tiers to 30, 50 and, in at least one instance, more than 100 (in effect, turning traditional rating into tier placement).

> ***There are so many questions that policymakers ask about insurance markets and the vast majority of regulators simply do not collect information necessary to answer such questions.***

The same issues arise over recent complaints over the use of claim history reports and insurer nonrenewals based on certain claim histories. Regulators should be reviewing underwriting guidelines as insurers change them, not after the fact because of consumer complaints or a news report. Most important, a review of underwriting guidelines can help focus investigation and examination efforts.

**Detailed geographic data**

We are also puzzled at some regulators' resistance to the collection of detailed market performance data by zip code (or smaller), by company and rating tier. There are so many questions that policymakers ask about insurance markets and the vast majority of regulators simply do not collect information necessary to answer such questions. States that have collected detailed geographic data have been able to examine insurance availability and affordability issues, the impact of credit scoring on various communities and many other issues. Analysis of these data is essential for identifying those companies that may be redlining or engaging in unfair cancellation or tier placement activities and otherwise identifying insurers whose market performance varies from expected norms.

**Surveys of market participants**

From our perspective, reinvented market conduct regulation must recognize that insurance regulators simply do not have the resources to carry out all the market analysis and enforcement activities themselves. In part, through the use of surveys of market participants – with whistleblower protection for agents – regulators can get real time market information on a variety of issues from a variety of perspectives. And, of course, this information will help regulators focus in on specific issues and problems.

**Marketplace testing**

Testing is the practice of sending examiners into the market as consumers to purchase insurance. Testing is commonplace in the lending industry and has been embraced by lenders themselves (as well as their regulators) as a means of testing the effectiveness of the lenders' efforts to promote fair lending practices. Insurance testing is a reasonable and necessary complement to other sources of market information for both identifying market issues and focusing further examination and enforcement activities.

These are just four additional sources of information for market analysis. Although the cost of obtaining such information may be significant, the benefits to all stakeholders are far greater.

By using these types of information in a market analysis framework, market regulation staff can focus scarce examination and enforcement resources on the most important problems, can efficiently design examination and enforcement activities to specific types of market problems and eliminate substantial costs for insurers.

Consumer groups hope to work with insurance regulators to ensure that regulators have state-of-the-art tools, techniques and authority to protect insurance consumers. ■

# GAO study: The trend toward 'market analysis'

*continued from page 9*

focusing on only one or a few of a company's area of operations. While some states still do comprehensive market conduct examinations, the trend is to conduct targeted examinations of limited scope and in a specific area of concern. Of the nine states we visited, Arkansas, Missouri, and New Mexico continue to conduct some comprehensive examinations as well as targeted examinations.

Arkansas officials told us that they believe comprehensive examinations are important because such examinations provide the greatest assurance that companies are complying with insurance laws and regulations. According to NAIC, 49 states and the District of Columbia reported performing some market conduct activities in 2001. Of these, 15 completed only targeted examinations, 4 did only comprehensive examinations, and 22 completed some of both types of examination. The remaining nine did not complete any market conduct examinations in 2001.

> ***Our review of the nine states indicated that the practice of sharing examination information with other states, when it occurred, varied substantially from state to state.***

The requirements and level of training for examiners also varied widely among the states. Each of the states we visited provided some type of training for their examiners. However, there are no generally accepted standards for what constitutes adequate training for a market conduct examiner across the states.

**States Vary in Emphasis**

There is considerable variation in the number of examinations completed in 2001 by the states we visited. Variation in the number of examinations consistent with the size of the insurance market would be expected. However, the number of examinations completed bore little relationship to the size of the insurance market in each state.

This comparison should not necessarily be taken as an indicator of the relative regulatory performance of the nine states we visited, because during another year the ranking of the states could be different.

However, together with the variations in how states select companies for examinations and how they do them, this added variability helps further explain why the states may be reluctant to depend on other states to examine companies selling insurance to their citizens.

In addition to the variation in examinations completed, some states have dedicated very few resources to market analysis and market conduct examinations. NAIC's *2001 Insurance Department Resources Report* does not even break out department staff assigned to market analysis, although financial analysts are separately identified.

In addition, 14 states, or 27 percent, did not report having any market conduct examiners on staff, although 4 of the 14 did report using full-time contract examiners. Ten states, or nearly 20 percent of all states, did not report having any market conduct examiners at all.

**Coordination & Communication Needed**

Our review of the nine states indicated that the practice of sharing examination information with other states, when it occurred, varied substantially from state to state. Some states coordinate their examination plans with other states or review other states examination reports prior to going into a company, while other states do not.

Even in states where some coordination occurs, other states' examination results do not generally affect examination plans. More coordination of market conduct examination plans, efforts and results could improve regulation and, at the same time, reduce the regulatory burden on companies.

*continued on next page*

# GAO study: The trend toward 'market analysis'

*continued from previous page*

Many insurance companies, particularly the largest ones, report that they undergo frequent, sometimes simultaneous, market conduct examinations. We asked 40 of the largest national insurance companies to provide information about their market conduct examination experience for the years 1999 to 2001. Of the 25 companies that responded, 19 were examined a total of 130 times by multiple insurance regulators during the 3-year period. Six were examined once or twice during the period, and just over one-half the responding companies were examined between one and five times. However, three companies were each examined 17 or more times during the three years, with one company receiving 20 examinations—an average of seven nearly every year.*

> ***The Examination Tracking System is incomplete and often ignored by the state regulators, in part, because it has been inconvenient and difficult to use for scheduling and reporting the results of market conduct examinations.***

These results appear to be consistent with concerns expressed by the insurance industry about excessively frequent, and possibly duplicative market conduct examinations. One of the most common complaints from the 25 insurers that responded to our questionnaire was that states did not coordinate their examinations with other states. Some companies reported that, on occasion, multiple states had conducted on-site examinations at the same time. The companies told us that such examinations create difficulties for them and limit resources they had available to assist the examiners.

In contrast, six companies, or nearly one-quarter of those responding, had not been examined by any state during the period. Of these six companies, two were last examined in 1997 and the other four did not report having any market conduct examinations. These companies—like others that reported—are large, multi-state insurance companies. Since in many states a primary criterion for selecting a company for examination is market share, these responses suggest that the proportion of medium and small insurers that rarely, if ever, receive a market conduct examination may be much higher.

Groups of states, as well as the NAIC, have taken actions to improve coordination and the efficiency of the market conduct examination process. One effort involves improving the sharing of examination information by providing notice of upcoming examinations and sharing results through NAIC's Examination Tracking System. However, the Examination Tracking System is incomplete and often ignored by the state regulators, in part, because it has been inconvenient and difficult to use for scheduling and reporting the results of market conduct examinations. As a result, states are not fully utilizing the system. NAIC's survey of states' use of the Examination Tracking System concluded that no more than 66 percent of the states, or 36 states, consistently reported their market conduct or combined market conduct/financial examination schedules to the NAIC. Moreover, only 31 percent of the states report back to the NAIC when the examination has been completed.

Another avenue of coordination being pursued by NAIC and some states is joint, or collaborative, examinations. Based on our review of nine states and of NAIC information, some states do conduct collaborative examinations. For example, Ohio officials told us that they have started to conduct collaborative examinations with Illinois, Nebraska, and Oregon.

Such efforts, however, have not been consis-

* We did not verify the companies' responses with state regulators. Moreover, we have no basis for evaluating the states' reasons for selecting specific companies to examine.

# GAO market conduct study

tent among states, nor is there a standard procedure about when or how such examinations should occur. Furthermore, while collaborative examinations could reduce the total number of duplicative exams and may result in somewhat more efficient use of regulatory resources, they still require that each state send examiners into the company.

In effect, collaborative examinations are a way for multiple states to do a market conduct examination of a company at the same time. This may be to the benefit of the company. However, if each state's examiners still ask for samples of files for only their own state's insurance consumers, the benefit may be reduced.

**Overview: Nationwide Standards Necessary**

We support the goal of increasing the effectiveness of market conduct regulation through development and implementation of consistent, nationwide standards for market analysis and market conduct examinations across the states in order to better protect insurance consumers. The emphasis placed on these issues by NAIC has increased substantially over the last three years.

We believe that NAIC has taken a first step in the right direction. Much work, however, remains, as NAIC and the states have not yet identified or reached agreement upon appropriate laws, regulations, processes, and resource requirements that will support the goal of an effective, uniform market oversight program.

Such a program, consisting of strong market analysis and effective market conduct examinations, will facilitate the development of an atmosphere of increasing trust among the states. However, at present it remains uncertain whether the NAIC and the states can agree on and implement a program that will accomplish this goal.

*GAO's full report*, Insurance Regulation: Common Standards and Improved Coordination Needed to Strengthen Market Regulation (GAO-03-433)*, is available through GAO's Web site,* www.gao.gov ■

## Al Greer Achievement Award 2004

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**Once again IRES members have a unique opportunity to make one of their own a nominee for this revered award. The deadline for submitting nominations is April 30, 2004.**

**This year's recipient will be honored in August at the IRES CDS in Denver.**

**Members are encouraged to take a few minutes and think about the regulator that you know is qualified and deserving of such recognition and complete a nomination form. If you have any questions, please call Scott Laird, AIE, AIRC, CCP, CFE (fraud) at 281-919-0162.**

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# Missouri and P/C industry wage battle over credit scoring

Does the use of credit scoring by insurers disproportionately impact low income and minority policyholders? The answer, at least in Missouri, is yes according to a recently released Missouri Department of Insurance study.

The study concluded that both urban and rural Missourians suffer because residents of Missouri's lowest-income areas – often in the inner cities and in the southern part of the state – had average credit scores 12.8 points lower than the wealthiest zip codes.

The low credit scores for minority zip codes hold true, according to the study, even when individual residents have the same income level, marital status, unemployment status, or education level, as residents of predominantly white neighborhoods.

> ***"The concern is that credit scoring is unfairly penalizing low income citizens with inflated insurance prices, with much of the burden falling on African-Americans and Hispanics."***
>
> — Missouri Gov. Bob Holden

As a result of the Department's report, Missouri's Governor Bob Holden is urging the Missouri Legislature to prohibit the use of credit scoring as a factor in establishing the price of private passenger automobile and homeowners insurance.

"The concern is that credit scoring is unfairly penalizing low income citizens with inflated insurance prices, with much of the burden falling on African-Americans and Hispanics," said Holden. "This places unnecessary obstacles in the way of many people and many communities that are struggling to move forward.

"Policymakers . . . need to understand," he added, "that credit scoring can make it unusually difficult for minorities and low-income Missourians statewide to protect their homes and vehicles."

A press release accompanying the report noted that the Missouri report is the first independent study to draw conclusions about whether credit scoring disproportionately harms minorities and low-income residents, who historically have faced significant obstacles in obtaining insurance. Prior to this report, only insurers and credit-scoring companies had access to the data needed to perform the study.

Gov. Holden also expressed concerns about credit-scoring techniques, indicating that they are secretive and not well understood by the public, and that they may not accurately reflect a person's financial responsibility.

The use of credit scoring exploded in the late 1990s as many auto insurers and homeowners carriers adopted this method for underwriting and rating purposes. National consumer and minority groups have objected to credit scoring, noting that it unfairly discriminates against low-income and minority policyholders.

The Missouri study used data submitted by 12 auto and/or homeowners insurers that relied on credit scoring as a significant part of their underwriting and rating process from 1999 to 2001, including Allstate, Farmers, Auto Club (AAA), Progressive and State Farm groups. The 12 companies account for more than 40% of all Missouri homeowners policies and almost half of all private auto insurance policies.

Missouri Insurance Director Scott B. Lakin also announced that Missouri will head a national study of credit scoring that will test whether similar patterns exist in other states. Ten states, according to the Department, already have signed up for the project, while another ten have expressed interest in joining the effort.

At press time, Missouri had not yet named the ten states that have agreed to participate in the project.

**Property-casualty groups respond**

The Property Casualty Insurers Association of America (PCI) quickly responded to the Missouri report, claiming the study contains "fatal flaws" in methodology and should not serve as the basis for developing sound public policy with respect to the use of credit scores in underwriting and rating.

Diana Lee, Assistant Vice President of Research for PCI said, "The Department of Insurance study ignored the most important factor considered by every insurance company when writing a policy – risk of loss. The study only analyzed the correlation between credit and socioeconomic status and did not take into account the policyholders' loss experience. Insurers do not collect information on race, ethnicity, or income. They only compile data on risk factors and they apply these factors equally to every consumer.

"Other studies, such as those conducted by EPIC Actuaries and the University of Texas, show that [credit] scores are a powerful predictor of risk across all states, regardless of whether they have high or low minority populations and whether they have high or low median household income."

PCI also questioned the intent of the study. "The study was clearly intended to support the Department of Insurance's view that insurance scores should be banned," said John Lobert, senior vice president, state legislative affairs for PCI.

Meanwhile, in late February, the Insurance Information Institute released an analysis of the Missouri report. The analysis concluded that the credit study contained "serious and substantial flaws" and had failed to corroborate its claims of adverse impact on minority and low-income residents.

The Institute also noted that Missouri in its report did not attempt to determine whether credit scoring is an accurate predictor of risk.

"The apparent reason for this glaring omission," the Institute asserts, "is that the Missouri Department of Insurance knows that there is a strong and statistically irrefutable relationship between credit scores and relative loss ratios."■

(Gathered from press and wire reports)

# REGULATORY ROUNDUP

by
Stroock & Stroock
& Lavan LLP

**COLORADO— Division of Insurance Issues Bulletin Regarding Optional Certification Process In Connection with Auto Insurer Rate Compliance**

The Colorado Division of Insurance recently issued Bulletin 13-2003 regarding an optional certification process for auto insurers seeking confirmation of compliance with rating laws. The Bulletin was prompted, in part, by recent court decisions that have required the Division to reverse its position that uninsured and underinsured motorist coverage (UM/UIM) is provided on a per vehicle basis. Such coverage is now viewed to be written on a per person basis. The Division had, on this basis, interpreted rating laws and accepted premium filings from insurers for more than two decades. Consequently, there is some question whether auto insurers' prior UM/UIM premium filings comply with Colorado Revised Statutes Section 10-4-403, which requires, among other things, that rates not be excessive. The Division will consider issuing a certificate of compliance only with respect to premiums in effect prior to the date of an insurer's request, provided that the insurer demonstrates that its UM/UIM rates were not excessive**.** *To view Bulletin 13-2003, visit www.dora.state.co.us/insurance*.

**DELAWARE—Department Adopts Third-Party Administrator Regulations**

The Delaware Insurance Department has adopted Regulation 1406, governing the activities of third party administrators that provide health insurance services in the state for insurers, as defined by the regulation. Regulation 1406 defines "third party administrator" (TPA) to mean any person "who directly or indirectly underwrites, collects charges or premiums from, or denies, modifies, adjusts or settles claims on residents of this state in connection with health and/or pharmacy benefits coverage offered or provided by an insurer." The term "insurer" includes, among other entities, any licensed insurance company in the state. TPAs may not act as such without a written agreement between the TPA and the insurer. The agreement must include certain provisions as specified by the regulation, including: (i) a statement of duties that the TPA is expected to perform on behalf of the insurer and the types of insurance the TPA is authorized to administer; (ii) standards regarding the maintenance of insurer information; (iii) prior approval by the insurer of advertising by the TPA pertaining to the insurer's business; and (iv) standards related to premium collection and the payment of claims. The written agreement must be retained as part of the official records of both the insurer and the TPA for the duration of the agreement and for five years thereafter. Regulation 1406 also provides that if a TPA underwrites insurance coverage, collects or charges premiums from Delaware residents or adjusts or settles any claims in connection with health and/or pharmacy benefits coverage provided by self-funded insurance plans to Delaware residents, the TPA providing such services must register annually with the Department. Regulation 1406 became effective on January 1, 2004. *For more information on Regulation 1406, visit www.state.de.us/inscom/.*

**ILLINOIS— Department of Insurance Issues Credit Scoring Bulletin**

The Illinois Department of Insurance has issued Bulletin 2003-3. The Bulletin provides section-by-section interpretive guidance on the provisions of recently enacted credit scoring legislation (Illinois House Bills 1640 and 3661). Among other sections, the Bulletin addresses Section 15 of Illinois House Bill 1640, which includes a definition of "adverse action." "Adverse action" is defined in House Bill 1640 to mean "a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavor-

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The New York-based Stroock & Stroock & Lavan LLP Insurance Practice Group includes partners Donald D. Gabay, Martin Minkowitz, William D. Latza and William Rosenblatt. The Insurance Practice Group also includes insurance finance consultants Vincent Laurenzano and Charles Henricks. They gratefully acknowledge the assistance of Priya Pooran, Robert T. Schmidlin, and Todd Zornik, associates of the group. This column is intended for informational purposes only and does not constitute legal advice.

able change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance." The Department interprets "adverse action" to include nonrenewal of policies as well as an applicant's or an insured's: (i) not receiving the best rate, best coverage or a discount; (ii) receiving a surcharge; and (iii) not being placed in an insurer's best tier or program within the company. The Bulletin also comments on Section 20(7) of House Bill 1640, which provides that an insurer that underwrites or rates risks based on credit information shall not rely upon such information any later than 36 months after the last time it either obtained current credit information for an insured, obtained an updated credit report or recalculated the insurance score. The Department interprets this provision to mean that insurers must re-underwrite and/or re-rate a consumer, using current credit information, within 36 months after the last time current credit information was used, subject to the exceptions set forth in Section 20(7) of House Bill 1640. This is true even if the last use of credit information was before October 1, 2003 (the effective date of House Bill 1640). Any insurer failing to comply with this provision may be required to re-underwrite or re-rate policyholders back to the renewal date at which current credit information should have been obtained and to refund any premium overpaid. The Bulletin also notes that Section 40 of House Bill 1640 requires insurers to file scoring models, but does not specify any time frame in which to do so. The Bulletin required insurers to file currently used models no later than October 1, 2003 and new or revised models within ten days of the stated effective dates. *To review the interpretive guidance set forth in Bulletin 2003-3, visit http://www.ins.state.il.us/cb/cb0303.htm.*

> ***Senate Bill 14 gave the Texas Insurance Department authority to regulate . . . credit-based insurance scoring in underwriting decisions.***

**NEW YORK— Producer Licensing Bill Enacted**

Legislation to enact a New York version of the National Association of Insurance Commissioners' *Producer Licensing Model Act* has been signed into law by the Governor. Chapter 687 of the Laws of 2003 makes numerous amendments to Article 21 of the New York Insurance Law, such as: (i) excluding from the definition of "insurance agent" under Insurance Law Section 2101(a) employees of insurers who are "engaging in the inspection, rating or classification of risks or in the supervision or training of licensed insurance producers and are not individually engaged in the sale, solicitation or negotiation of insurance"; (ii) excluding certain employees of insurance producers from the term "insurance broker" under Insurance Law Section 2101(c); (iii) defining the term "insurance producer"; and (iv) defining certain terms relevant to insurance producer licensing requirements and business transactions, including "solicitation", "sale" and "negotiation". Chapter 687 provides for the licensing of non-resident insurance producers on a reciprocal basis. Such licenses would be granted only to non-resident producers whose home state grants non-resident licenses to New York resident producers. Chapter 687 also includes provisions furthering uniformity between New York and other states' producer licensing statutes. Chapter 687 took effect Jan. 1, 2004. *For more information on Chapter 687, see www.assembly.state.ny.us.*

**TEXAS— Department Adopts Initial Credit Scoring Rules.**

The enactment of Senate Bill 14 gave the Texas Insurance Department authority to regulate the use of credit-based insurance scoring in underwriting decisions. Preliminary rules pertaining to the use by insurers of such scoring have been adopted by the Department. These rules require companies using credit information to provide consumers applying for insurance with a disclosure statement that advises the consumer whether insurance scoring shall be used in setting rates and sets forth the protections and rights of the consumer. The rules establish a consumer's right to appeal an adverse ruling that results in an adverse consequence, such as higher rates. Insurance companies are required to provide a telephone number that consumers can use to dispute prohibited or inaccurate information. The rules also require insurers to justify rate charges resulting from credit scoring when used with other rating variables. *For further information, visit www.tdi.state.tx.us.*

# IRES State Chapter News

**Colorado** — **Tom Abel**, Supervisor of the Colorado Division's Rates and Forms section made a presentation regarding service contracts, warranties, and written agreements at our January IRES-sponsored training session. Our February class focused on the new Medicare prescription drug law.
— *Dayle Axman; dayle.axman@dora.state.co.us*

**Kansas** — The Kansas Chapter of IRES had our first quarterly meeting of the year on January 23. We were pleased to welcome our five new members to their first IRES meeting, as well as one visitor, **Gary Domer**, an IRES Past President.

We then enjoyed a presentation by the Department's Chief Actuary, **Larry Bruning**, who provided us with everything we ever wanted to know about actuaries, i.e., their training and education, job duties, and professional responsiblities. After Larry's presentation, we had a short business meeting to discuss the upcoming CDS in Denver.

At our next meeting in April, the Kansas Livestock Association is coming in to discuss Mad Cow Disease and its impact on the insurance industry as well as Kansas agribusiness.

— *Martin J. Hazen; mhazen@ksinsurance.org*

**Louisiana** — On Jan. 22, we held our State Committee Meeting to discuss future meeting topics and speakers. Ten members were present. At our next meeting, **Malissa Drake** will discuss flex rating.
— *Larry Hawkins; lhawkins@ldi.state.la.us*

**Oregon** — In December, Insurance Division Administrator **Joel Ario** and Market Regulation Section Manager **Jann Goodpaster** reviewed the recent issues discussed at NAIC. Financial Regulation Section Manager **Russell Latham** was pleased to announce that the Oregon Insurance Division has been accredited by the NAIC.

In January, Agent Licensing Unit Manager **Margarita Nunez** reviewed the new Oregon agent licensing laws that were passed by the 2003 Legislature, while Senior Policy Analyst **Shelley Bain** discussed recent changes to Oregon health insurance laws.
— *Gary Holliday; gary.r.holliday@state.or.us*

**Virginia** — The Virginia IRES Chapter recently held its first quarterly meeting for the New Year with 27 members in attendance. **Victoria Savoy**, the Bureau's Chief Financial Auditor, presented a program titled "What Market Conduct Examiners Need to Know About Financial Regulation." The presentation was a general overview of financial regulation and how it impacts the jobs we do. She offered helpful information and suggested activities of an insurer that may warrant closer attention in other areas of insurance regulation.

Congratulations were extended to the members receiving educational designations since our last meeting.
—*Agatha Lewis Stokes; AStokes@scc.state.va.us*

## Quote of the Month

*"And if you want to gather a herd of cats together it sometimes helps to have a whip, and quite frankly if it means that there has to be a federal whip out there, or some kind of a threat that makes us act, then so be it. I accept that as a simple reality."*

— NAIC President Ernst Csiszar on why the threat of federal regulatory action can spur state regulators to more rapidly reform the insurance regulatory system.

# IRES 2004 Career Development Seminar

## AUG. 15-17, 2004

## DENVER MARRIOTT

(MARRIOTT CITY CENTER)

## Official Registration Form

*Fill out and mail to The Insurance Regulatory Examiners Society*
*12730 Pflumm Rd, Suite 102, Olathe, KS 66062*

***Yes!*** **Sign me up for the Year 2004 IRES Career Development Seminar. My check payable to IRES is enclosed.**

Name

Title First name for Badge

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Your mailing address Indicate: Home ☐ Business

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### Seminar Fees

(includes lunch, cont. breakfast and snack breaks for both days)

Check box that applies

- ☐ IRES Member (regulator) ..... $285
- ☐ Industry Sustaining Member ... $460
- ☐ Non-Member Regulator ..... $410
- ☐ Retired IRES Member ..... $110
- ☐ Industry, Non-Sustaining Member ..... $710
- ☐ Spouse/guest meal fee ..... $80

Spouse/Guest name

**Hotel Rooms:** You must book your hotel room directly with the Denver Marriott City Center. The room rate for IRES attendees is $150 per night for single-double rooms. Call group reservations at 800-228-9290. The IRES convention rate is available until July 15, 2004 and on a space-available basis thereafter. Our room block often is sold out by early June, so guests are advised to call early to book rooms. See the hotel's web site at http://denvermarriott.com.

**CANCELLATIONS AND REFUNDS**

Your registration fee minus a $25 cancellation fee, can be refunded if we receive written notice before July 15, 2004. No refunds will be given after that date. However, your registration fee may be transferred to another qualifying registrant. Refund checks will be processed after Sept. 1, 2004.

**If registering after July 15, add $40.00. No registration is guaranteed until payment is received by IRES.**

**A $25 cancellation fee will be assessed if canceling for any reason.**

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, please notify us at 913-768-4700 at least five working days before the seminar. The hotel's facilities comply with all ADA requirements.

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**Seating for all events is limited. IRES reserves the right to decline registration for late registrants due to seating limitations.**

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# BULLETIN BOARD

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√ **Farewell** — Former IRES Board member Richard Lynde will be retiring from the New York State Insurance Department in March. Rich, who worked 34 years for the Department's Property Bureau, was instrumental in the formation and development of IRES.

**In the next REGULATOR:**

✓ **What's Up with the SVO?**

√ **Get a hotel room in Denver NOW!!** — Don't wait until summer to try to get a hotel room at the Denver Marriott for the 2004 Career Development Seminar. Our rooms always go fast, and when the room block is gone you may have to pay a higher rate. See page 19 of this issue for hotel and registration information. Registration packets will be sent to all IRES members before the end of March.

√ **IRES Board elections** — Your CDS registration packet also will include a Board of Directors ballot. For information on the Board candidates, go to www.go-ires.org

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A new mindset for market regulation? Story on p. 1

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