The introduction of risk-based exams was the logical successor in a series of steps designed to address preceding economic events, ones which demonstrated the need for more risk transparency within insurance companies and evaluation and understanding by those charged with regulating the industry.

From the individual corporate failures of the likes of Enron and WorldCom came Sarbanes-Oxley, followed by the insurance industry-specific Model Audit Rule and the risk-based exam format we have today. While the former exam process did include risk in its analysis, the focus was on the past: the balance sheet. Regulators recognized the need to develop modifications to that process and incorporated an enhanced risk-assessment process. This continuum of risk-focused analysis by both the regulator and the regulated presents the industry with an excellent foundation for the development and maintenance of sound enterprise risk management (ERM) systems that can more adequately meet regulators' ERM and solvency initiatives.

Enterprise Risk Reporting
The Solvency Modernization Initiative (SMI)—the multi-faceted project focused on examining the insurance solvency regulatory framework in the United States and the reviewing of international developments regarding insurance supervision—has provided the industry with two key recent solvency and risk initiatives. Just as the SMI has, as one of its elements, a critical look at solvency, so too does the risk-based exam system of financial regulation “look” at issues that can potentially affect the solvency of individual companies.

Enterprise risk reporting at the holding company level became a technical reality with the adoption by the National Association of Insurance Commissioners (NAIC) of the revised Insurance Holding Company Model Law. Enterprise risk reporting at the operating company level will be the next step.

Continued on page 2
Company System Regulatory Act (Model 440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (Model 450) in December 2011. With the requirements set in place for ultimate adoption by the states, these two Model Laws provide a framework for the new enterprise risk reports filing requirement at the holding company level. To date, states that have enacted elements of these latest NAIC Models include Connecticut, Indiana, Kentucky, Louisiana, Nebraska, Rhode Island, Texas, and West Virginia. Similar legislative bills are currently pending this year in California, the District of Columbia, Illinois, and Pennsylvania.

As the states continue the adoption roll-out, the industry is once again looking at a risk-based focus requirement—this time at the holding company level, as the ultimate controlling person of each applicable insurance company must file an annual enterprise risk report that identifies, to the best of such person’s knowledge and belief, the material risks within the insurance holding company system that could pose enterprise risk to the insurance company. Looking at this from a more granular perspective, Model 450’s Form F, the “Enterprise Risk Report,” provides a list of 10 areas that could produce enterprise risk in the organization. Included in this list are material developments regarding strategy, internal audit findings, compliance, or risk management affecting the insurance holding company system. Other areas to be addressed include developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system, and identification of insurance holding company system capital resources and material distribution patterns.

The regulatory focus on enterprise risk management, as shown in both the NAIC’s recent revisions to these Models as well as the initial wave of state adoptions of these requirements, demonstrates a continuing regulatory trend. However, trendy or not, the information and analysis needed to successfully respond to Form F have roots in the new risk-based exam process.

**The solid foundation of the traditional financial “numbers” exam... essentially begged the next step in the quest for transparency and better insight into capital adequacy.**

**And Then There Is ORSA**

Not long after the holding company Models were adopted, the NAIC adopted its Risk Management and Own Risk Solvency Assessment (RMORSA) Model Act, one which, by definition, is focused on a company’s assessment of solvency issues. As with any Model, it is now up to the individual states to adopt its provisions and requirements, although the effective date incorporated into the Model is January 1, 2015, and should be regarded as a target date. This requirement will give regulators a deeper understanding of an insurer’s internal risk management practices. More than just a look back to identify solvency issues, the ORSA reporting requirement will look forward to future solvency and serve to assess the insurer’s ability to withstand financial stress. In addition, the information an ORSA contains will complement the information coming out of the risk-focused examination process.

**The Continuum**

With the risk-based exam well-established as the norm, the holding company’s enterprise risk reporting well on its way to becoming the norm, and ORSA reporting becoming a reality in the very near term, the industry is witnessing the additional steps along the “risk-based” continuum. The solid foundation of the traditional financial “numbers” exam, coupled with the demands of the risk-based exam, essentially begged the next step in the quest for transparency and better insight into capital adequacy.

Risk knowledge is the key, and companies that have experienced a risk-based exam understand its general format and focus. Instead of risk-based exams being the wave of the future, ERM and ORSA are recognized as the next wave—a wave built on all those that have come on shore before it. However, just as companies and regulators alike worked through those first risk-based exams, so too is the industry working toward ORSA. The ORSA pilot project conducted in 2012 reportedly yielded useful information. Likewise, the 2013 pilot project will also serve to augment the steps required for insurers to fully implement this latest step in the continuum of ensuring financial soundness in the insurance industry.

Kathy Donovan is senior compliance counsel for Insurance Compliance Solutions at Wolters Kluwer Financial Services. She may be reached at kathy.donovan@wolterskluwer.com.
Risk is inherent in today’s global business environment. The threat of catastrophic loss—from terrorism, natural disasters, health epidemics, financial mismanagement, privacy/security breaches, and the like—demand that companies take steps to ensure financial stability, policyholder servicing capabilities, and growth and profitability. US state insurance regulators, insurance companies, industry groups and other interested parties have been working toward a goal of improving processes for understanding and measuring risks in the business of insurance.

In the last year, the National Association of Insurance Commissioners (NAIC) has helped the industry take a big step toward this goal by leading development of the Own Risk and Solvency Assessment (ORSA) Guidance Manual and Model Act. The development of an ORSA regulatory requirement in the US is consistent with broader regulatory trends globally that are outlined in a set of “core principles” defined by the International Association of Insurance Supervisors.

ORSA’s purpose is to assess, in a continuous and prospective way, the overall solvency needs related to the specific risk profile of an insurance company. These risks include the obvious financial, market, and operational risks. But the process can be used to assess any material and relevant risk in an insurance company.

A Comprehensive Enterprise Risk Management Framework

Compliance with ORSA helps ensure that an insurance company has a robust, enterprise-wide risk management framework in place, and that company decision makers use it to better understand risk.

Key elements of such a framework include:

- **Risk culture and governance** – The governance structure must clearly define and articulate roles, responsibilities, and accountabilities. The culture must reinforce accountability for risk-based decision making.

- **Risk identification and prioritization** – A risk identification and prioritization process must be a key part of the ERM approach. The process must have a clear owner who makes sure the process is appropriate and functioning properly.

- **Risk appetite, tolerances and limits** – A formal risk appetite statement and associated risk tolerances and limits should set the foundation for risk taking and management at the insurer. Board review and understanding of the risk appetite statement ensures alignment with risk strategy.

- **Risk management and controls** – Risk management should be an ongoing enterprise risk management activity, operating at all levels within the organization. Appropriate controls should be in place to ensure that risk is being managed within the insurer’s risk appetite and tolerance.

- **Risk reporting and communication** – Risk reporting and communication should provide transparency into the risk management processes and facilitate active risk-based discussions and decisions on risk taking and management.

Above all, the company must have risk guidelines and processes to monitor and respond to changes in risks. In the event that a risk guideline is breached, appropriate corrective action should be taken.

Ultimately, risk management is concerned with the consequences of future events whose exact outcome is unknown, and how to respond to and plan for uncertainty. A strong risk management program is a sign that an organization incorporates these concerns in its decision making processes. While many insurers continue to improve their risk management efforts, ORSA provides a comprehensive, yet flexible framework for future enhancements. From a regulatory perspective, ORSA demonstrates that the company is prepared to withstand unexpected, unplanned and/or unlikely events.

A Collaborative Effort

We cannot conclude this short article without acknowledging the strong leadership demonstrated by the NAIC and the methods it used to develop a sound and sensible approach to ORSA. Throughout the development process, the NAIC collaborated with many industry groups—including the CRO Council—to ensure a full understanding of the widely varied ERM practices and processes. The CRO Council is a professional association of chief risk officers of leading P&C and Life insurers based in the United States, Canada, and Bermuda.

We thank the NAIC for the opportunity it provided the CRO Council to collaborate and comment on ORSA. We believe the final product delivers a sound and sensible approach to ORSA requirements.
President’s Remarks
by Mark A. Hooker, CIE, CPCU, FLMI, CWCP, CCP, MCM, AIRC, AAI, AU, AIS, LUTCF

Fellow IRES members,

It has been a busy few months while I settle into my new role with IRES. The list of things I want to accomplish in the short time frame of 12 months is long, and I want to give a shout out to my executive committee and board of directors who are helping me move through these improvements. I will try to keep you up to date on changes through this column and our website.

Right now is membership renewal time. If you’ve already renewed your dues for 2013, I want to say thanks. If you haven’t, I want to give you some reasons why you should. You’ve probably heard these before, but I just want to take a few minutes and remind you of the benefits of IRES.

First of all, IRES is a leader in regulator education and information. We pride ourselves on finding ways to keep regulators current on issues and changes in the regulatory insurance world. Tanya Sherman has done an exceptional job of putting on meaningful and timely webinars so that our members have access to relevant and timely information. Already this year, we’ve had a webinar covering the “Expanding Role of the Federal Government in Regulation of Insurance.” There are five more webinars scheduled for 2013 that provide an extremely valuable learning opportunity for our members—at no cost to you.

As a member working on the AIE™ or CIE™ designation, you know that it’s sometimes difficult to find time to study for an exam. IRES is starting a Designation Assistance Program to help you through classes. Beginning in January 2013, IRES is providing a webinar that will provide classroom style sessions for the AIRC 420 class. This is one of the required classes to obtain your designation. The study webinar class is provided free to IRES members.

Of course, as a member of IRES, you receive the quarterly issue of The Regulator*. So please send in your membership renewal now. We appreciate you!

I encourage you to share your special talents and get involved.

I’d also like to say thank you to Lynette Baker, Holly Blanchard, Joe Bieniek, Don Bratcher, and the Ampere! staff for making sure that refunds were provided to those people not able to attend the 2012 CDS because of travel problems due to Hurricane Isaac. You’ve put in lots of hours to make sure that checks were in the mail in a timely fashion once the appropriate documentation got to IRES. Also, a thank you to last year’s board of directors for having the foresight to purchase event insurance for CDS. The insurance company is covering about 60% of the reimbursements.

As you can see, this year has started out with many successes. I want to thank all the member volunteers because, through you, we are able to successfully accomplish our mission. I encourage you to share your special talents and get involved. While all the committees and events can use your help, we have a couple of special volunteer positions. In case you’re interested, here they are:

• Advertising Coordinator for The Regulator*. Please contact Stacy Rinehart or Lynette Baker.

• Facilitator for a Property & Casualty study session, part of the Designation Assistance Program. Contact Holly Blanchard or Martha Long.

It continues to be an honor to serve as your president, and I hope to see each of you in Portland this year! ■

Mark Hooker is the chief market conduct examiner and market analysis chief for the State of West Virginia, Office of the Insurance Commissioner. Mark was elected to Insurance Regulatory Examiners’ Society’s board of directors in 2009, serving as its Education Committee chair from 2009–2012. He is currently the society’s president. Mark was the 2012 recipient of the IRES President’s Award.

Chartrand Communications Award

The Chartrand Communications Award recognizes those who have made a difference to IRES through their actions, worked diligently for IRES with an eye to the future, and promoted IRES throughout the insurance community. This person can be an IRES member, a sustaining member, or even an organization that has been involved with IRES for at least two years. Nominate a deserving person or entity now! www.go-ires.org/leadership/halloffame#chartrand
The NAIC’s Solvency Modernization Initiative
Can It Be Useful for Insurance Market Regulation?
By David G. DelBiondo, CPA

Can a project that was started by the NAIC in response to the United States financial crisis and the increased relevance of international financial oversight standards have any relevance to current insurance market regulation? For the last several years, the NAIC membership has been working on the Solvency Modernization Initiative (SMI). According to the SMI Roadmap, the NAIC undertook a critical self-examination of the United States’ solvency framework, which included a review of the entire domestic financial regulatory system and all aspects relative to the financial condition of an insurer. In my opinion, this initiative will assist market regulators in understanding the insurer’s commitment to market compliance.

The scope of the SMI is not limited to the evaluation of merely the solvency areas of regulation, as it focuses on capital requirements, corporate governance and risk management, group supervision, statutory accounting and financial reporting, and reinsurance. Although the primary purpose of the activity related to the five areas listed above is to improve financial solvency surveillance, I believe that implementation of enhanced corporate governance and risk management concepts can assist market regulation. The SMI Task Force has created the Own Risk Solvency Assessment (ORSA) insurance company reporting requirements that market regulators could and should use in evaluating an insurer’s market compliance culture.

Financial regulators currently perform certain elements of risk management evaluation as part of the risk-focused surveillance process, which includes an assessment of the insurer’s ability to identify, manage, and mitigate risks. The SMI Task Force concluded that insurers should be required to report on and quantify risk management practices. Therefore the Task Force adopted the NAIC Own Risk and Solvency Assessment Manual intended to provide guidance to an insurer and/or insurance group in conducting its ORSA. In conjunction, the SMI Task Force created a model law to require insurers to have a risk management framework, perform an ORSA, and file an ORSA Summary Report.

What specifically would a market regulator find useful in an ORSA Summary Report? Section 1 of the report is a description of the insurer’s risk management framework. Section 2 of the Summary Report documents the qualitative and quantitative assessments of risk exposure. Section 3 of the report provides the insurer’s determination of the levels of capital resources it needs to manage the current business. This is done by combining the qualitative aspects of its risk management policy and the quantitative measures of risk exposure. Reading the ORSA Summary Report will provide any regulator, whether market or financial, with a high-level summary of how the insurer identifies all relevant and material risks and manages these risks as it executes the business strategy. For market regulators, they could expect to learn how the insurer identifies and considers the risks related to product and policy development, territorial expansion, producer appointment and oversight, and various other operational activities.

An insurer produced analysis and report is not a replacement for all critical insurance department oversight, but the ORSA Summary Report can provide a regulator with insight into an insurer’s risk culture and corporate governance. Understanding how an insurer prioritizes the risks associated with market-related business operations and what controls and procedures it establishes to limit risk and communicate necessary information throughout the organization can be useful in focusing regulatory activity on the most significant areas.

The proposed Model Law would be effective January 1, 2014—meaning insurers would file an ORSA Summary Report for the first time no later than June 30, 2015. Not all insurers would be required to file the ORSA Summary Report because the Model Law provides for an exemption from the requirements for an insurer that has annual direct written and unaffiliated assumed premium of less than $500,000,000 and an insurance group that has annual direct written and unaffiliated assumed premium of less than $1,000,000,000. However, the model law does give the Commissioner discretion to require an insurer to comply with the ORSA-related requirements.

As insurance regulation continues to evolve beyond singular legal oversight and expand beyond traditional subject matter boundaries, both market and financial regulators need to be aware of and utilize any tools and information available that can enhance consumer protection and increase regulatory efficiency. I believe the ORSA process is certainly one of those tools that can benefit both financial solvency and market activity regulation.

David G. DelBiondo, CPA currently works for INS Regulatory Insurance Services.
The IT Review

...as a Part of the NAIC Financial Examination – Yesterday and Today
by Jenny L. Jeffers, CISA, AES

Many changes have occurred with the level and methodology of the performance of an IT review as a part of the NAIC Financial Examination process. These changes have been brought about partially by the growing dominance of information systems and technology in the management and processing of all aspects of the world of insurance.

Of course, computers have long been utilized for mathematical intensive calculations such as actuarial calculations. The “computer people” were “geeks” and not usually allowed to talk to examiners, who were okay with this since the examiners did not feel that they would be able to communicate, either.

As companies grew larger, IT began to be used for tracking claims and premiums. The utilization has now spread to every area of quoting, processing, and record keeping—and to the imaging of paper—such that there are no paper claims files in most companies. Insurance companies use information from their systems to make decisions, evaluate investments, calculate numbers for annual statements, calculate premium amounts, and adjudicate claims.

The number of “computer people” is growing to hundreds in many companies, and systems are becoming more and more complex. With these changes, the IT review has also undergone changes. NAIC instituted the use of the ISQ (Information Systems Questionnaire). This questionnaire consisted of more than 50 pages of questions to be answered by the company in much the same way as the Specific Risk Assessment (SRA) questionnaires. The responses were often “yes” or “no” and sometimes—but not always—supportive information was provided with the response. In general, the EIC would review the responses and discuss with the company—possibly with only the financial exam coordinator—any question with a “no” response. This method was utilized until quite recently.

Sometimes, for larger companies, an IS specialist was utilized to do a more in-depth review of IT controls, still based on the ISQ. The IS specialist evaluated the responses to the ISQ as well as additional controls in place. During this process, the IS specialist interviewed people in the IT department and observed the implementation of controls. The final report summarized the systems and controls in place and provided the EIC and examination team with an assessment of how much reliance should be placed on the information that the systems generated.

The number of “computer people” is growing to hundreds in many companies, and systems are becoming more and more complex.

Most of this work was scheduled to be performed prior to or at the very beginning of the onsite financial examination. There was usually very little communication between the IS specialist and the EIC other than the IS final report. Sometimes, the IS specialist was gone before the actual exam began.

During the following years, the utilization of the IS specialist was expanded to include assistance with the data request presented to the company (to be used for claims and premium testing) and performing ACL calculations and sample selection. During this period, the EIC and the IS specialist would communicate to discuss what was needed to perform appropriate tests and the sample sizes were partially dependent on the level of reliance the IS specialist recommended to be placed on the systems. One service that could then be offered by the IS specialist was to serve as a bridge between the EIC and the company IT personnel. Prior to this time, disconnects were possible and perhaps likely between the examiners and the IT personnel who were providing the data. Data names are not consistent between companies and systems and IT people utilize a lot of acronyms that seem reasonable to them but can mean something completely different to a financial examiner. An examiner would ask for policy number and the data person would only know about group number and certificate numbers.

Some examples of communication problems:

In one instance, the examiners asked for “producing agents” for a sample of policies. The programmer took the request to mean “match to only currently producing agents” and did not include agents who were no longer producing. This gave the impression that some policies were not written by an appointed agent. The IS specialist discussed this with the programmer and the change was made and all appropriate data provided.

Another example was an examiner who asked for some pieces of information that were not in the primary database and would require the programmer to do extensive programming (on a mainframe) to provide. The programmer asked if they were necessary and the examiner thought he was trying to avoid providing the information. The IS specialist was able to confirm that the basic data could be provided immediately, but the additional information would take another week. Therefore, it was decided to get the additional information only for the sample of records rather than the entire population. Everyone was a winner in this modified plan.

continued on page 7
A good IS specialist should be able to discuss requests with the financial examiners and interpret back and forth between the examiners and the IT personnel. This communication line can lead to a smoother and more successful exam. This skill can be utilized in both Market Conduct and Financial exam processes.

During this stage of development of the IS specialist utilization in financial examinations, the AES designation was adopted by SOFE. This occurred prior to 1999. This designation was based on the passing of the AFE tests or having the AFE or CFE designation, passing the CISA (Certified Information Systems Auditor) exam provided by ISACA and a passing proficiency test covering TeamMate and ACL (this test is provided by NAIC). This designation adds a dimension to the CISA certification, as it requires knowledge of both insurance and IT controls. The AES designation has gained esteem in SOFE and is now considered to be a standalone designation. Currently, most SOFE members with an AES designation are also CFES. This is due to the emergence of the designation at a time when most IT reviews were carried out by financial examiners. In current years, more state departments and contractors have separate IS specialists who focus on maintaining current knowledge of IT controls, threats, and emerging technology. This trend is necessary with the growing emphasis on information technology as the basis for all aspects of insurance business.

Starting in about 2000, the NAIC Audit Software Working Group decided that the Information Systems Questionnaire should be revamped. After much discussion and consideration among state personnel and contractor interested parties, it was decided that the new Exhibit C (IT) should follow the COBIT framework. COBIT, initially an acronym for “Control objectives for information and related technology,” defines 34 generic processes to manage IT. Each process is defined together with process inputs and outputs, key process activities, process objectives, performance measures, and an elementary maturity model. The framework supports governance of IT by defining and aligning business goals with IT goals and IT processes. The framework provides good practices across a domain and process framework. The business orientation of COBIT consists of linking business goals to IT goals, providing metrics and maturity models to measure their achievement, and identifying the associated responsibilities of business and IT process owners. The process focus of COBIT is illustrated by a process model that subdivides IT into four domains (Plan and Organize, Acquire and Implement, Deliver and Support, and Monitor and Evaluate) and 34 processes in line with the responsibility areas of plan, build, run, and monitor. It is positioned at a high level and has been aligned and harmonized with other, more detailed, IT standards and good practices such as COSO, ITIL, ISO 27000, CMMI, TOGAF, and PMBOK. COBIT acts as an integrator of these different guidance materials, summarizing key objectives under one umbrella framework that link the good practice models with governance and business requirements. Companies that are publicly traded in the US are subject to the Sarbanes-Oxley Act of 2002. COBIT is the framework used by most companies to comply with Sarbanes-Oxley.

The Exhibit C has been divided into two parts in the new Risk Focused approach that came into use for IT in 2002. Exhibit C Part 1 is a short questionnaire that hits on specific areas of IT control and governance. The responses to these questions give the financial examiner and the IS specialist a good understanding of the systems and controls in place at the company. Usually, this questionnaire is provided to the company with the initial data request made by the state department. These questions are high level and the responses can be easily read and understood. The EIC and IS specialist should discuss the responses and note any areas of concern. Additionally, the EIC and IS specialist should work together to acquire the IT workpapers from the external CPA firm and the IT audit reports from Internal Audit.

C-level interviews will be conducted by the IS specialist with the C-level IT officers of the company. It is good to have the EIC participate in the interviews whenever possible to allow them to ask questions regarding concerns they may have. Additionally, the IS specialist should make every effort to attend some of the financial C-level interviews, such as Internal Audit and Enterprise Risk Management. This working together forms a partnership between the financial examiners and IS specialist that will strengthen the quality of the entire examination.

The COBIT framework supports governance of IT by defining and aligning business goals with IT goals and IT processes.

These sources, together with the knowledge of the EIC from prior exams and concerns voiced by the internal analysts, will allow the development of two important pieces of the IT Review: the IT Planning Memo and the Customized Exhibit C Part 2.

The IT Planning Memo lays out the information learned from the information gathered, including existing audit exceptions. Additionally, a preliminary risk assessment is stated that will allow the financial team to utilize this information in their planning of the exam. This memo should be provided to and discussed with the EIC.

The Customized Exhibit C Part 2 is provided to the company for completion. The customization involves omitting or adding control questions to reflect the high to moderate risks present in the specific company. Additionally, controls that have been covered by the information

continued on page 8
OMG, had I really crossed over to the same thing as the numbers in column B?
Numbers in column A added up to the make me do things like verify that the to work here. Were they really the biggest mistake of my life in coming were also CPAs, I thought that I’d made couple of financial examiner types who me hang out with (and be trained by) a market conduct examiner and they made (So when I started with the state as a market conduct examiner and they made me hang out with (and be trained by) a couple of financial examiner types who were also CPAs, I thought that I’d made the biggest mistake of my life in coming to work here. Were they really going to make me do things like verify that the numbers in column A added up to the same thing as the numbers in column B? OMG, had I really crossed over to the previously gathered do not need to be included. Some EICs like to have input into the customization of the Exhibit C Part 2.

The review of the responses of the Exhibit C Part 2 constitute the primary work of the IS specialist. Any significant control deficiency that could have a substantial or material impact on the annual statement or on the financial stability of the company should be reported to the EIC immediately. Any change in the preliminary risk assessment should be discussed immediately with the EIC, as it may have an effect on the level of testing performed. This review results in the development of the IT Summary Memo, which will be presented to the EIC and will contain the summary of control assessments for IT controls including residual for each control area (domain).

During the remainder of the exam, control deficiencies in the financial system controls may come to light, such as identifying out of balance situations. The IS specialist will remain available and the EIC will utilize the IS expertise to evaluate the systems involved for mitigating controls. Additionally, calculations can be re-performed by the IS specialist to verify suspect results noted by the financial exam team.

Throughout the exam, the financial examiners (especially the EIC) maintain communication with the IS specialist in order to maximize the usefulness of their knowledge and specific area of expertise.

The assessment of the risk associated with the IT General Controls can contribute greatly to the approach utilized by Market Conduct examiners to determine the level of testing needed. Additionally, the primary systems information is useful in determining the samples to be requested.

Jenny Jeffers is the owner of Jennan Enterprises. She has been in business for 33 years, providing information services to receivers and guaranty associations as well as information system auditing for the insurance regulatory industry. Jenny is active in many professional organizations such as SOFE and IRES, participating on many committees. She actively participates in educating examiners about the importance of IT in the insurance industry and regulatory environment.

Editor’s Corner
Musings from the Northwest
by Leslie Krier, AIE, Co-Editor of The Regulator®

Now, no one has ever accused me of being even remotely close to an accountant. I had to take a certain amount of accounting to get my college degree and have had to take basic classes to get my designations. One company even paid me to take an accounting for non-managers class so that I could read balance sheets. I love online banking because it’s in real time and I don’t have to balance my checking account (which never came out right, anyway).

So when I started with the state as a market conduct examiner and they made me hang out with (and be trained by) a couple of financial examiner types who were also CPAs, I thought that I’d made the biggest mistake of my life in coming to work here. Were they really going to make me do things like verify that the numbers in column A added up to the same thing as the numbers in column B? OMG, had I really crossed over to the dark side, as all my industry friends tried to tell me???

Yes, I was on a team with two really patient financial examiners who taught me that market and financial examination work actually complement each other and that not all things financial are about numbers. We actually learned from each other (probably more than them) and still share information we find that may lead to issues on “the other side.” (Yes, Mike and John, I’m actually going to make sure that you have a copy of this publication and that you know I’ve said something good about you publicly!)

The biggest thing that I learned from them is that, to be effective as a regulator, you at least need to understand the core philosophy and structure of the company from several angles—and that any market conduct findings are potentially going to have an impact on solvency. Therefore, it’s important to understand what happens on each side of the “fence.” Thus: this issue of The Regulator®.

This issue of The Regulator® focuses on solvency issues and processes. Learn what ORSA is all about, what risk focus exams are all about, and how both “sides” can use that information to regulate. I just want to shout out a big thank you to Wanda LaPrath, who is responsible for spearheading this topic for us and found such great contributors. I’m not sure how much force she exerted on the arms that she twisted, but we’ve got great articles from really knowledgeable people. Thanks, Wanda!

I am really excited for CDS this year. It’s in my backyard and I can’t wait for my IRES friends to become acquainted with the Pacific Northwest. Whether you
want to tour wine country, spend a few days on the rugged Pacific Ocean coast, see a lighthouse up close and personal, take a river boat trip, do some whale watching or even salmon fishing, watch wind surfers on the Columbia River, or enjoy the beauty of Multnomah Falls, you will find something for everyone in the Northwest! Throughout this issue of *The Regulator*®, you will see links to local tourist information sites so that you can begin planning your trip. I know that the CDS program will be chock full of great sessions and interesting topics, but plan on spending a little extra time just to enjoy the Northwest.

Low humidity, moderate temperatures, and (hopefully) lots of blue sky make the summer a great time to be in Portland—and a good excuse to come visit is to attend CDS!

Happy reading!

---

It’s Time to Change the World

by Eric C. Nordman

Since I assumed another leadership role at the beginning of 2012, I have had some amazing things occur. My new title as director of the NAIC Center for Insurance Policy and Research (CIPR) has given me the opportunity to interact with some incredible thought leaders. The white paper *Financing Home Ownership, Origins and Evolution of Mortgage Securitization: Public Policy, Financial Innovations and Crises* published by the CIPR in August has now been downloaded more than 25,000 times—a record, I’m told. What’s all the fuss?

**Background Information**

One of the vexing problems of the recent economic downturn was the performance of the real estate markets. This is important to insurance regulators, as insurers are major investors in real estate, both directly through ownership of their facilities and indirectly as investors. Insurers’ investments come in the form of direct lending, but more commonly as investments in both residential mortgage-backed securities (RMBS) and commercial mortgage-backed securities (CMBS). The trouble with investing in either RMBS or CMBS is that it is difficult for an investor to know what the value of the RMBS or CMBS is at any point in time. This difficulty arises because the information needed to evaluate the performance of an RMBS or a CMBS properly is opaque. It is not easily discoverable by the investor.

This was a problem during the economic downturn because nobody could establish a reliable value of RMBS or CMBS securities given the lack of timely information about the performance of the underlying mortgages that made up the package of loans that had been securitized. Casual assumptions that housing values always went up proved inaccurate. Lack of information about creditworthiness of borrowers whose loans were in the packages and lack of information about the lenders’ underwriting standards made it impossible to know with any level of certainty what a particular RMBS or CMBS was worth.

Before the economic downturn, there was a robust private market for guaranteeing RMBS. The leverage in the mortgage market surged during the boom years (2001-2007). At the time, the mortgage debt outstanding was greater than any other lending sector. The rate of growth and the amount of outstanding loans were both rapidly increasing. Residential mortgage debt outstanding grew at around 12 percent per year from 2000 to 2007, when it peaked at $11.2 trillion. At the time, this was an amount greater than the total outstanding of the Treasury, non-financial corporate bonds, and credit card debt combined.

The culprit seemed to be the subprime mortgages that lowered lenders’ underwriting standards, making it easier for people to borrow. Unfortunately, the ability to borrow did not coincide with the ability and willingness to repay the loan. Before the emergence and proliferation of subprime mortgages, the housing finance system was served by the government sponsored enterprises (Fannie Mae and Freddie Mac), a few mortgage insurers, and large lending institutions. These entities knew and understood each other’s business practices. Collectively, the system had developed accepted underwriting standards that could effectively eliminate most unqualified borrowers and a working model for setting risk-based premiums for guaranteeing mortgage credit losses.

The introduction of subprime securitization, things were working pretty well because all the market participants knew and understood each other.

In that pre-subprime environment, securitization primarily involved deals backed by conforming prime loans. The

continued on page 10
said the RBMS markets do not work because they lack the basic source of investor protection, namely transparency. Mr. Field also observed that insurance regulators are in a unique position to influence the broader RMBS markets because insurance regulators are the only regulators representing investors; in this case, insurers that own $123.2 billion worth of RMBS and $161.9 billion worth of CMBS. The numbers reported by the NAIC Capital Markets Bureau are the holdings in modeled securities. They do not include agency paper and a small amount of non-agency that could not be modeled.

**Everyone agrees that the RMBS markets are in disarray.**

Mr. Field’s suggested solution to protect insurer investments is for regulators to use capital requirements to encourage the insurers to invest in new RMBS issues from entities providing credible investor protections. Mr. Field defines credible investor protection as timely, observable, event-based disclosure so that insurers and other investors can independently assess the creditworthiness of the underlying collateral for each structured finance product.

David M. Rowe is founder and president of David M. Rowe Risk Advisory, a risk management consulting firm focused on risk management support for boards and senior executives of financial institutions (primarily banks and investment banks), with particular focus on capital market activities. Dr. Rowe is a frequent contributor to *Risk* magazine, where he has written the monthly *Risk Analysis* column since late 1999. Dr. Rowe proposed countering housing finance complexity with “Market-Driven Transparency.”

Dr. Rowe is a firm believer in the writings of Charles L. Schultz, a senior fellow emeritus in the Economic Studies Program at the Brookings Institution. Schultz wrote in his book *The Public Use of Private Interest* that, “According to conventional wisdom, government may intervene when private markets fail to provide goods and services that society values.” He maintains, and I agree, that the private placement market for RMBS is badly broken and in need of repair. The RMBS market is an important one for insurers, as it helps them diversify their asset base. It thereby becomes important to insurance regulators charged with overseeing a healthy and competitive insurance marketplace.

Dr. Rowe has identified a risk predictive technology that he called a “foundational technology for creating healthy and transparent markets.” It deploys inducements to market participants to encourage them to update continuously the underlying mortgage-related data needed to value the RMBS. Using a device known as a Transaction Credit™, RMBS aggregators are motivated to disclose pertinent information regarding mortgage performance because they receive an economic benefit from doing so. The Transaction Credit™ provides aggregators and investors with their choice of incentives to induce them to use the transaction platform. The participant can choose a reduced fee on future transactions or gain access to market information to improve sales and market performance.

This methodology need not remain a vision. At the CIPR Luncheon, Dr. Rowe’s speech went much further than the way he expressed his thinking in the white paper. He declared that implementation of the “only innovation I have seen that promises to revive the securitized mortgage market and to do so without the benefits of government guarantees” should be made a “national priority.” He was talking about resolving as much as roughly $5.35 trillion in government insured debt that the government says it wants to privatize. This is the nation’s largest single risk exposure, fully one third of the public and private debt. This “national priority” status is even more the case, as it also applies to the world’s largest credit product, roughly $700 trillion in credit derivatives, Credit Default

continued on page 11
The Regulator® • WINTER 2013

Swaps (i.e. the US is generally thought to have about a 40% market share of financial markets).

What is needed to supplement the LEI is to develop a transaction platform within which RMBS can be traded and tracked.

Implementing Change

Everyone agrees that the RMBS markets are in disarray. Loans are difficult to obtain. Only the government sponsored entities seem to be willing to guarantee mortgage loans and then only prime loans for highly qualified borrowers. What is in question is what to do about the market and its implications for insurers’ investment opportunities in RMBS. Given that investments in these markets are a key piece of the investment portfolio of insurers, it is important to them, to consumers, and to insurance regulators that these markets become more functional and reliable.

Immediately after the global financial crisis, politicians were calling for greater transparency, enhanced disclosure, and more regulation as solutions to address the credit crisis. As Dr. Rowe observed in his contribution to the white paper, there was plenty of blame to go around. The solution for many was the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. One of the features of the Dodd-Frank Act was the chartering of the Financial Stability Oversight Council (FSOC) and its research arm the Office of Financial Research (OFR). Together, they were tasked with identifying and documenting risks to the US financial system, promoting market discipline, collecting information needed to assess risks to the US financial system, and coordinating regulatory oversight and information sharing for the financial sector. The housing markets and the related RMBS markets are but one piece of a broader puzzle. So far, the most visible work product of the OFR is creation of the Legal Entity Identifier (LEI). While this is an important first step to a common platform for risk transfers, it is by no means the end. The LEI tells us who is doing something but not what they are doing.

What is needed to supplement the LEI is to develop a transaction platform within which RMBS can be traded and tracked. Accomplishing the task will require a strategic alliance of buyers, regulators, and the general public. The major sell-side firms will not be motivated to develop a solution, as they fear it will reduce what they perceive as a competitive advantage. What sellers fail to realize is that what they lose in narrower margins will be more than made up in volume as the RMBS markets restart and trust is restored.

The transaction platform should start with the lender granting a mortgage. Participating lenders can make information available about their loan underwriting standards, the accuracy of real estate appraisals, and key performance indicators after the mortgage is issued. Indicators might include receipt of a payment, failure of the borrower to make a timely payment, delinquency milestones, changes to the mortgage loan documents, and other agreed upon factors. Aggregators can assemble mortgage packages and tie the information to each loan within a package. Investors will receive access to the transparent mortgage-related information when they purchase an RMBS. If the investor happens to be an insurer, a regulatory portal will give insurance financial regulators access to current transparent information pertinent to the valuation of the RMBS asset. The multiple eyes of the insurance regulators would assist with keeping all parties honest and provide a valuable risk valuation tool for all financial regulators.

An inventor named Michael Erlanger is the owner of the intellectual property mentioned by Dr. Rowe. Going beyond the Transaction Credit™, Mr. Erlanger has outlined all the businesses processes necessary to add transparency and restore the RMBS markets for the benefit of insurers and other investors. His company, Marketcore, should be included as part of the solution. The business processes described on the Marketcore website (www.marketcore.com) involve the electronic “trading” of risk-detailing disclosures in exchange for more efficient, better-functioning financial markets. The transaction platform would be both optional and voluntary. His recommended processes go beyond the RMBS markets and would potentially cover all of structured finance.

The suggested business process can quantify and reduce risk to help restore financial markets to good health. The reason this invention works for capital markets products like RMBS is twofold. First, if an electronic system is developed to enable the transactions and capture the transaction data, the administrative costs to all parties to the transaction would be reduced over the current business processes. Second, there is always a cost of risk associated with a financial product that is related to uncertainty. The greater the uncertainty, the greater the cost of the element of the capital markets product associated with the transfer of that risk between the parties. If the uncertainty surrounding the risk is reduced, then the cost of risk is reduced and the overall cost of the product is reduced. The Marketcore invention is designed to reduce uncertainty and enable a more complete identification of risk in financial products. All parties to the transaction benefit from the reduced transaction costs.

As an important first step, insurance regulators are in a position to lead. They can be the catalyst for convening the necessary strategic alliance of investors, regulators, and the public. It’s time to change the world—or at least this part of it.

Eric Nordman is the director of the NAIC’s Center for Insurance Policy & Research. He is a long time member of IRES and currently serves on the board of directors.
Happy New Year!
So, Let’s Starting Talking about The Career Development Seminar and Regulatory Workshop – 2013!

Although the skies in Florida were not as bright as we had all hoped, I think that those of us in attendance at the 2012 CDS agree that we were able to “Brighten Your Regulatory Skills in the Sunshine State.” To continue in that tradition, the IRES Education Committee has preparations well underway for CDS 2013.

CDS 2013 will be held in Portland, Oregon, July 28 through 31. The annual Career Development Seminar represents an important aspect in helping IRES to achieve one of its primary goals: “to promote fair, cost effective, and efficient insurance regulation by ensuring professionalism and integrity among the individuals who service state and federal insurance regulatory bodies.” We want to take this opportunity to thank the members who provided welcome feedback regarding CDS 2012, which, as always, we are taking into consideration in our planning process for CDS 2013.

Please remember that it’s not too late to offer additional feedback. We encourage you to share your thoughts and ideas so our planning process is as robust as possible. We have included some contact information for representatives of our Education Committee who would be pleased to receive your input.

After the 2012 CDS, we asked for your feedback regarding our program. We want to thank you for your comments and are pleased to share with you some of the changes based on your ideas. Here’s a sample of what you can expect at the 2013 CDS:

- We are planning to offer interactive discussions on examination best practices and lessons learned.
- There will be an enhanced Information Technology track with multiple training sessions.
- There will be a full day of training on healthcare reform issues and discussions related to methods of implementation.
- An MCM™ (Market Conduct Management) “teaser” session will be held to introduce you to the MCM™ program.
- Another session of the very successful Regulatory Skills Workshop will be held.

This is just a sample of some of the innovative sessions the Education Committee is planning to ensure that we have a substantive and informative CDS. Thank you for your suggestions and ideas!

Soon members will begin receiving “Save the Date” emails to keep you apprised of the CDS 2013 planning process, highlights of specific agenda topics, and information regarding CDS seminar fees and the very important early bird discount rates. We will also very shortly be sending an announcement regarding the theme for this year’s CDS.

In the meantime, please send your feedback and suggestions to any one of the following Education Committee members:

- Mark Hooker
  IRES President
  mark.hooker@wvinsurance.gov

- Holly Blanchard
  IRES President-Elect
  Chair of IRES Education Committee
  holly.blanchard@nebraska.gov

- Parker Stevens
  Vice Chair and CDS Co-Chair
  parkerstevens@examresources.net

- Sam Binnun
  CDS Co-Chair
  sam.binnun@mcgladrey.com

- Robin Clover
  CDS Co-Chair
  robin.clover@ffic.com

Again, Happy New Year! We look forward to keeping you posted on CDS 2013 developments and to seeing you in Portland, Oregon!

Northwest Attractions: The Columbia River Gorge

To start you off: The Columbia River runs between Washington and Oregon for about 300 miles. Just outside of Portland is an area known as the Columbia River Gorge. Besides being beautiful country, it’s also home to some pristine wind surfing locations, wineries, and hikes. Follow this link to see what else you can do along the Gorge: www.crgva.org
The IRES Market Conduct Management (MCM™) Program is a unique and practical 2.5-day class that offers advanced, hands-on training on how to manage an effective and efficient market conduct examination. The MCM™ Program teaches valuable tools for examination management designed to achieve operational efficiencies. It is ideal for current and future examiners-in-charge and company compliance personnel.

Initiated in November 2007, and with more than 500 people earning the MCM™ designation, the MCM™ course facilitates an information exchange among Department of Insurance (DOI) regulators, contract examiners, and industry compliance personnel, lawyers, and more. Approximately the same number of DOI employees, contract examiners, and industry representatives have earned the MCM™ designation. In addition, several insurance companies have hosted an MCM™ class, as have various DOIs.

MCM™ offers advanced certification and furthers professional standards and ethics in insurance regulation. The MCM™ Program contains an interactive, comprehensive curriculum. The class material encompasses a wide variety of market regulation topics (see below). All MCM™ class attendees who complete the course and pass the test receive the MCM™ designation.

Topics to be covered in the classes include:
- Market Regulation and Examinations
- Purpose and Vehicles for Market Regulation
- Market Analysis
- Core Exam Procedures
- Exam and Investigative Techniques
- Fraud Detection
- Addressing Violations and Non-Violation Issues
- Exam Management
- Pre-Examination Planning
- Role of the Examiner-In-Charge
- Exam Team Management
- Managing the Exam
- Workpaper Organization and Documentation
- Workpaper Confidentiality
- Communication and Report Writing
- Communicating with the Company, Team, and Insurance Department
- Issuing Critique/Comment Forms
- Exam Report Writing
- Avoiding Conflicts
- Post Exam Communication
- Standardized Data Requests and Technology
- Exam Process Technology
- Understanding the Standardized Data Requests
- Constructing a Data Call
- Analyzing the Data

IRES Members holding an AIE™ or CIE™ designation will automatically receive 15 continuing education (CE) credits for completion of the course. General certificates of attendance will be issued to participants interested in using the MCM™ Program credits to satisfy CE requirements for other organizations.

IRES 2013 MCM™ Registration Is Open!
by Douglas A. Freeman and Bill McDonald

Register online now:
www.go-ires.org/events/mcm2013

Upcoming 2013 MCM Programs

March 4-6, 2013
New York City, NY
Hosted by MetLife*

May 1-3, 2013 (following IRES Foundation National School on Market Regulation)
Savannah, GA
Hosted by IRES Foundation

June 12-14, 2013
Richmond, VA
Hosted by VA State Corporation Commission’s Bureau of Insurance

July 31-August 2, 2013 (following CDS)
Portland, OR

October 21-23, 2013
Madison, WI
Hosted by WI DOI

*For information about the March 2013 class in New York City, please contact Bill McDonald at MetLife directly at bmcdonald@metlife.com or (401) 827-3451.
Celebrate in Savannah

The 20th Annual National School on Market Regulation

It’s that time of year again: to get ready for a wonderful spring education opportunity—in Savannah, Georgia!

The IRES Foundation will hold its annual National School on Market Regulation on April 28-30, 2013. This is a great opportunity for attendees (both regulators and industry alike) to network and catch up on some of the latest issues affecting the insurance arena. There is always ample opportunity to discuss issues and even have appointments available for one-on-one conversations with regulators. The Foundation has a great agenda planned and is going to have a fun game of Family Feud (the industry versus the regulators), so make sure to register today!

For more information and to register, visit www.ires-foundation.org/2013-school/home.html.

The IRES Foundation is a nonprofit organization whose board is composed of volunteers from all areas of the insurance industry, including law firms and support organizations. The Foundation’s mission is to assist in the development of educational and training opportunities for professional insurance regulators as well as educating the private sector about state insurance regulation.

20th Annual National School on Market Regulation
SAVANNAH, GEORGIA APRIL 28-30, 2013
THE WESTIN SAVANNAH HARBOR GOLF RESORT AND SPA

It’s time to nominate someone you know for the Al Greer Award!

If you know someone who has been a regulator for at least five years, is a currently member of IRES, and is a dedicated, knowledgeable, and tenacious professional regulator, take a few minutes to recognize him or her by filling out a nomination form and submitting it to IRES by April 30: www.go-ires.org/leadership/halloffame/greer

2013 MCM™ Registration Fees

Members
• $495 general member
• $795 sustaining member

Nonmembers
• $595 regulator
• $1,075 non-regulator

The registration fee covers the costs of the updated MCM™ textbook, the classroom materials, and the revised examination. Participants are on their own for breakfast, lunch, refreshments, and dinner.

Attire for the MCM™ Program is business casual.

For more information on the MCM™ Program and registration information, you can download the current MCM™ brochure from www.go-ires.org/events/mcm2013.

You may also contact the MCM™ Subcommittee Chair, Doug Freeman, at (636) 236-9642 or at dafreeman18@aol.com.

Doug Freeman is a past president of IRES and is currently the chair of the IRES Past Presidents’ Council. He has been involved with the MCM™ program from its inception and is currently the chair of the MCM™ Subcommittee. He resides in St. Louis with his wife, Rochelle.

Bill McDonald is a senior compliance consultant for MetLife. He is currently active on several IRES Education and Ethics subcommittees. Bill is a graduate of the 157th Session of the FBI National Academy and holds a B.S. degree in criminal justice and a Certificate in Law Enforcement Education. He received his Market Conduct Management (MCM™) designation in 2008 and a Certificate in Project Management at Bryant University in 2009.
Education Committee  
Chair: Holly Blanchard  
(holly.blanchard@nebraska.gov)

- **Designation Assistance Program** –  
This new program is designed to aid IRES members in studying for certain designations. The first study class is for AIRC 420 and will be led by Tim Nutt. The AIRC 420 class is part of the curriculum for AIE™, CIE™, and CICSR™ designations. We are currently looking for someone with P&C expertise who can facilitate a study webinar.

- **2nd Annual Al Gross/Jim Long Rookie of the Year Scholarships** –  
Applications for the scholarship are due. One scholarship is awarded per zone for a person with fewer than two years of regulatory experience for CDS, MCM™ or the Market Regulation School. More news on this in the next issue of *The Regulator*.

Accreditation and Ethics Committee  
Chair: Parker Stevens  
(parkerstevens@examresources.net)

- **New MCM™ registration** – You can now register for any of the 2013 MCM™ classes by visiting the IRES website and clicking on the class you are interested in taking. Previously, you had to wait to enroll until it was closer to actual class time. Now you can plan ahead and enroll now.

- **MCM™ classes for 2013** – Doug Freeman and his ensemble of dedicated volunteers began marketing the five MCM™ classes for 2013. The classes are in New York City; Savannah, GA; Richmond, VA; Portland, OR; and Madison, WI. More information is available on the IRES website at [www.go-ires.org/events/mcm2013](http://www.go-ires.org/events/mcm2013).

- **Model Training Program** – The committee finalized a training program for market regulation personnel. We have shared this with the NAIC and, hopefully, they will add this to the Market Regulation Handbook. This effort was spearheaded by Tom McIntyre, Tracey Biehn, and John Stike. Thanks to all of you for a great job.

Membership and Benefits Committee  
Chair: Tanya Sherman  
(tsherman@risdelaware.com)

- **Communications** – Tanya Sherman is currently contacting those who have yet to renew their membership.

- **State Chairs** – Erin Mirza has been holding quarterly State Chair calls.

Meetings and Elections Committee  
Chair: Tom Ballard  
(tballard@tlbcsllc.com)

- The committee is working with the IRES Foundation to find a location for the 2014 Joint CDS and School on Market Regulation.

- Along with the Past Presidents’ Council, the M&E Committee is engaged in a comprehensive rewrite of our bylaws. The first draft is due to be exposed to the board of directors in February, with the final draft going to the entire membership in late spring.

Publications Committee  
Chair: Stacy Rinehart  
(srinehart@ksinsurance.org)

- The Publications Committee has assumed primary responsibility for coordinating website content. Erin Mirza volunteered to lead this effort. The website committee has been reviewing a recent survey to members concerning appearance, content, and usability of our current website and is considering changes based on the survey. More to come on this later.

Northwest Attractions: Wine Country  
Washington and Oregon are home to many wineries. Want to get a little taste of the northwest by doing some winery hopping? Try these websites:  
• IRES has adopted a new slogan: “Your Network of Knowledge for Insurance Regulation.” The committee is starting to incorporate this slogan in all official correspondence and marketing materials.

• IRES has a new marketing program and Kelsey Brunette has volunteered to assist with the effort.

Budget and Finance Committee
Chair: Joe Bieniek (joe.bieniek@firstconsulting.com)

Thanks to Joe and the Budget and Finance Committee, the IRES board adopted a balanced budget prior to the beginning of the year. The committee continues to oversee the 2013 budget and finances of the society. There isn’t any new activity to report at this time.

Executive Committee
Chair: IRES President Mark Hooker (mark.hooker@wvinsurance.gov)

The Executive Committee is working to finalize a letter to the NAIC D Committee Chair, Commissioner Sharon Clark of Kentucky. This letter details the suggestions of the post CDS session “If You Were the Czar of Market Conduct, What Would It Look Like?” This letter and the Model Training Program developed by the IRES Accreditation and Ethics Committee will be sent as a package. Hopefully, these documents will show commissioners what an important resource IRES can be and raise awareness of the IRES organization nationwide. Thank you to Kirk Yeager, Jo LeDuc, Tanya Sherman, Dennis Shoop, Sherri Marston, Leslie Krier, and Doug Freeman for all of your input, and to Lynette Baker for pulling it all together.

These committees are staffed by volunteers. If you are interested in participating in one of the committees listed above, please contact the committee chair. Alternatively, you may contact the IRES office at info@go-ires.org. Thank you for volunteering!

Meet Your Executive Committee
by Joe Bieniek, as told to Leslie Krier

This is the third article in the “Meet Your Executive Committee” series, designed to introduce you to IRES Executive Committee members and tell you about the IRES committee chaired by each one. This month, you will meet Joseph F. Bieniek, CPCU, AIE, CRM, CCP, CIC, ARC, MCM, AIS, AU, AINS, who is currently the IRES treasurer and, since being appointed to this position, better known to many as “Mr. T.”

Joe Bieniek is well known within the IRES community. He has served on both the IRES Foundation board and now on the IRES board of directors and Executive Committee. In his “other life,” Joe is vice president and senior consultant at First Consulting & Administration, Inc. His primary responsibility is to help the insurance industry in their business strategies focused on compliance and regulatory needs.

Within IRES, Joe serves as our treasurer and is the chair of the Budget and Finance Committee. The Budget and Finance Committee’s role is to maintain the financial solvency of IRES by facilitating effective financial operations. In addition to creating, maintaining, and balancing the budget, the committee works to maximize the investment income of the Society in a safe and effective manner. In doing so, Joe is the signer of all of our checks and he reviews all expenses closely. Each year, the committee works with all of IRES’s committees and Executive Committee members individually to develop an operating budget on a calendar year basis. The Budget and Finance Committee also oversees the purchase of our insurance policies. IRES is fortunate to have purchased an event cancellation policy in 2012 for the annual Career Development Seminar (CDS), as Isaac played a little havoc with many of the people that wanted to attend the CDS.

At IRES Executive Committee and IRES board meetings, Joe is known as Mr. T.

Joe was a board member of the IRES Foundation from 1992 through 2006 and he served as secretary for a total of six years. Joe has been on the IRES board since 2007 and is in his second year as treasurer. At the 2012 CDS, Joe received the Chartrand Communications Award, which recognizes individuals who have made a difference to IRES through their actions.

At IRES Executive Committee and IRES board meetings, Joe is known as Mr. T. This name was given to Joe after his first board meeting as treasurer. During that first board meeting, Joe seemed to frequently signal for a time out, like in sporting events. Joe was calling for “time outs” as some individuals were perhaps being a little too aggressive in wanting to spend money without the Budget and Finance Committee taking a closer look at things first. The “T” also goes with treasurer. So now you’ll know why Joe is wearing bling when you see him in Portland at the CDS.

Prior to joining First Consulting in 2012, Joe held two different positions after starting at the NAIC in 2006. While at the NAIC, Joe was involved in many different issues and assisted regulators, the industry, and consumers in various ways. While at the NAIC, Joe wrote articles to inform the industry about timely topics. He wrote

continued on page 17
two articles that were published in *The Regulator*®. Demystifying Title Insurance, Part 1 of a 2 Part Report on Title Insurance appeared in the summer 2011 issue of *The Regulator*®. During the 2012 CDS, Joe received the Schrader-Nelson Publications Award that honors the most outstanding original contribution to the Society’s newsletter over the previous year because of the informative article he provided on title insurance. The fall issue of *The Regulator*® captured a good example of Joe being speechless during his acceptance remarks after receiving the Schrader-Nelson Publications Award. It is a rare occurrence that Joe would be speechless on anything!

Joe is active in the CPCU Society on both the national level and within the local chapters. He currently serves as a director of the Kansas City Chapter of the CPCU Society board of directors.

Joe is also active within the Association of Insurance Compliance Professionals (AICP) and has served in various positions both nationally and at the chapter level. He was the recipient of AICP’s 2002 Robert W. Lennon Award. This prestigious award is given in recognition of outstanding service to the organization in memory of one of its founders, Robert W. Lennon. He also received the President’s Award in 2001 from the AICP in recognition of his service and dedication to the AICP.

Before joining the NAIC, Joe was at Wolters Kluwer Financial Services for nine years and at Allstate Insurance for 20 years. He has handled all lines of insurance in a variety of capacities. Joe has spoken at many industry events due to his knowledge of the industry on many topics.

Joe and Lonna, his wife of 33 years, live in a golf club community in Kansas City. Joe says that was a great move, but he just doesn’t seem to get out and enjoy golf as he would like. Given Joe’s involvement at work and in all these professional organizations, that doesn’t seem surprising! Joe and Lonna have two daughters. One lives close to Kansas City and the other lives with her husband in Springfield, Massachusetts.

---

**‘Zoning’ In**

**Northeastern Zone**

*By Jason M. Kurtz*

**New York State Governor Cuomo announces measures to expedite handling of Sandy-related claims**

On November 29, 2012, New York State Governor Andrew Cuomo announced a number of measures being taken to expedite the payment of insurance claims for New York State residents impacted by Superstorm Sandy. Specifically, Governor Cuomo directed the New York Department of Financial Services (DFS) to issue an emergency amendment to New York Insurance Regulation 64 (11 NYCRR Part 216) reducing the time for insurers to investigate Sandy-related claims in ten designated counties from fifteen business days to six business days. The emergency regulation includes a provision that allows claimants to immediately commence repairs to heating systems, hot water systems, necessary electrical connections, and exterior windows and doors before the insurer inspects the property. Governor Cuomo also issued Executive Order Number 82, which temporarily suspends the requirements of New York Insurance Law § 2108 in order to facilitate the issuance of temporary public adjuster licenses. In addition, Governor Cuomo announced the launch of an online report card system that will evaluate insurance companies operating in areas affected by Superstorm Sandy.

**New Jersey Assemblyman seeks limitations on public adjuster fees following Superstorm Sandy**

After hearing from numerous homeowners affected by Superstorm Sandy about excessive amounts being charged by public adjusters, New Jersey State Assembly Speaker Pro Tempore Jerry Green has introduced legislation that would cap the amount a public adjuster may charge during certain emergencies. The bill calls for restricting compensation levels for claims (made up to one year following the declaration of a “catastrophic loss experience”) to no more than 10 percent of the amount of the claim paid by the insurance company. The bill defines a “catastrophic loss occurrence” as “an occurrence designated by the President of the United States or the Federal Emergency Management Agency, or the Governor of New Jersey or the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety, or any other authorized federal, State or local agency, as an emergency or a disaster and includes, but is not limited to, a flood, hurricane, storm or earthquake.” Assemblyman Green’s proposal follows the lead of several other states, such as Mississippi, Florida, and North Carolina, which have limited the amounts public adjusters can charge in the wake of catastrophic events.

**Pennsylvania Insurance Department collects record amount of fines in 2012**

The Pennsylvania Insurance Department recently announced that it had collected all-time highs of nearly $18 million in fines and $13.4 million in restitution in 2012. These collections resulted from enforcement and market conduct actions, as well as 10 multi-state examinations in

---

*continued on page 18*
which Pennsylvania was a lead state along with other state insurance departments. One of the most significant actions was a multi-state examination of a major property and casualty insurer and its workers’ compensation affiliates, which led to the largest-ever single amount of fines and assessments collected by the Pennsylvania Insurance Department. The multi-state examinations focused on life insurance companies and their claims business practices resulted in the companies agreeing to adopt additional pro-consumer claims practices that will include using the Social Security Administration’s Death Master File on a uniform basis when processing and paying life insurance claims.

Southeastern Zone

By Scott G. Paris

Proof of insurance may not be provided through smart phone applications in Arkansas

On November 20, 2012, the Arkansas Attorney General issued an opinion letter responding to a question regarding whether insurers can provide proof of insurance through the use of a smart phone application. The questioner explained that the smart phone application would display an electronic proof of insurance containing the same information as would be available on an insurance card. The opinion states that providing access to electronic proof of insurance does not satisfy the state’s insurance law requirement that insurers provide a “proof-of-insurance card.”

Further, the opinion states that insurance information displayed on a smart phone application will not constitute appropriate proof of insurance coverage, which must be shown at traffic stops, and use of an electronic proof of insurance will result in the rebuttable presumption that the operator of the car is uninsured.

Virginia administrative letter outlining requirements to reinsurer risk

On December 13, 2012, the Virginia Bureau of Insurance issued an administrative letter listing requirements for reinsurers and domestic insurers assuming risks in the state and responsibilities for the ceding insurers. The letter lists several ways in which an insurer may qualify to be an assuming insurer when the ceding insurer is a domestic. The letter states that reinsurers must satisfy minimum financial standards. Ceding domestics must ensure the validity of any credit reported on their financial statements and be able to identify how the assuming insurer or reinsurer is qualified to assume the risk.

Alabama title insurance licensing requirements

On December 28, 2012, the Alabama Insurance Department issued a notice outlining new requirements for the licensing of title insurers. The notice provides that all title insurance agents will receive “replacement” licenses on January 1, 2013. The replacement licenses will be valid through June 30, 2013. Agents wishing to be licensed after the replacement licenses expire must apply for a new license and may be required to sit for an examination. Alabama insurance law provides that an individual will be exempt from the examination requirement if they are authorized as a signatory to commitments, title insurance policies, and endorsements to title insurance policies in the state for the prior five years. The notice provides that the title insurance examination will be implemented on July 1, 2013. In order to sit for an examination, candidates must complete a 20-hour relicensing course.

Midwestern Zone

By Molly E. Lang

Illinois provides guidelines for requesting confidential treatment of information filed via SERFF

The Illinois Department of Insurance issued a bulletin on December 13, 2012, explaining the procedures for requesting confidential treatment of information filed via the System for Electronic Rate and Form Filing (SERFF). A company submitting a filing via SERFF may request confidential treatment of information by specifically identifying the portions of the filing that it wishes to maintain as a trade secret exempt from public disclosure. The company must explain in writing why the portion of the filing selected qualifies for the trade secret exemption by demonstrating the following: (1) the information is sufficiently secret to derive economic value, actual or potential, from not being generally known to other persons who can obtain economic value from its disclosure or use; (2) the information is the subject of efforts that are reasonable under the circumstances to maintain its secrecy or confidentiality; and (3) disclosure of the information will result in competitive harm.

Ohio governor to consider proposed law increasing minimum liability limits

Ohio lawmakers have passed bills that seek to increase the minimum liability limits required for valid proof of financial
responsibility. If signed into law, the following changes will be applied six months after the effective date: (1) the minimum per-person bodily injury liability limit would increase from $12,500 to $20,000; (2) the minimum per-accident bodily injury liability limit would increase from $25,000 to $40,000; and (3) the minimum property damage liability limit would increase from $7,500 to $15,000. Two years after the effective date, the minimum per-person bodily injury liability limit would increase from $20,000 to $25,000, the minimum per-accident bodily injury liability limit would increase from $40,000 to $50,000, and the minimum property damage liability limit would increase from $15,000 to $25,000.

Proposed modifications to Wisconsin’s life insurance reserving regulations
Proposed changes to Wis. Admin. Code Ins. §§ 2.80 & 50.79 would modify reserving requirements for life and fraternal insurers and revise and clarify the reporting requirements related to the life reserves. The changes contemplated to Wis. Admin. Code Ins. § 2.80 would remove certain minimum limits on premium deficiency reserves, aligning Wisconsin with the NAIC’s model regulation.

Western Zone
By Benjamin C. Chynsky

Surplus lines written premium on the rise in Texas
In Texas, the amount of surplus lines insurance premium written increased by 25 percent as of the end of October. This represents significant growth in the surplus lines insurance business. The state of Texas will also benefit from a projected $15 million increase in tax revenue. Also, as a result of the Non-admitted & Reinsurance Reform Act, agents may now procure surplus lines policies for some exempt commercial insurance purchasers without relying on the admitted insurance market. However, the Texas Department of Insurance requires those purchases to be reported to the Surplus Lines Stamping Office of Texas (SLSOT). Beginning January 1, SLSOT will track purchases related to exempt commercial purchasers.

Insurer must show prejudice to enforce proof of loss provisions in California
The California Court of Appeals recently determined that a proof of loss condition in a first party insurance policy is subject to California’s notice-prejudice rule (Henderson v. Farmers Group, Inc., 210 Cal. App. 4th 459 (2012)). In California, insureds are required by statute to provide a proof of loss to the insurer. California’s notice-prejudice rule requires an insurer to show it was prejudiced by an insured’s failure to comply with such provisions before denying coverage. However, there have been lingering questions as to whether a proof of loss requirement requires the insurer to show prejudice. In Henderson, the homeowners failed to timely submit proofs of loss and the insurer refused to cover the losses. The Court of Appeals expanded the application of the notice-prejudice rule to proof of loss conditions. The Court relied on California’s public policy against “technical forfeitures,” which advocates for a finding of coverage to avoid an unreasonable forfeiture. The decision significantly expands the application of the notice-prejudice rule.

Investigation leads insurer to reduce force-placed premiums
The insurer American Modern Home Insurance Co. agreed to reduce its premiums for force-placed homeowners insurance by more than 20 percent after an investigation showed rates were artificially high, according to the California Department of Insurance. The Department examined the insurer’s annual financial statement data and found many cases of low loss-ratios, which are the percentage of every premium dollar an insurer spends on actual claims. The Department said low loss-ratios were a red flag that rates charged by insurers may be too high.

New Mexico set to overhaul state insurance regulation
New Mexico is revamping the state regulator that oversees insurance prices and policies. Under a change to the New Mexico constitution approved by voters in November, the regulation of insurance companies will no longer be a responsibility of the five-member elected Public Regulation Commission (PRC). Instead, there will be an appointed insurance regulator who will run the independent Office of the Superintendent of Insurance beginning next July. The regulator will oversee rates for health plans offered through the new healthcare exchange just as it now approves the pricing of policies offered by insurance companies doing business in New Mexico. Early next year, the New Mexico legislature will decide further details of the new regulatory system. Lawmakers will determine the membership of a commission that appoints the insurance superintendent and will establish the qualifications for who serves as the top insurance regulator.

“The Zoning In” is developed by members of Nelson Levine de Luca & Hamilton’s Insurance Regulation Practice Group. With a team of professionals that includes former insurance regulators, Nelson Levine assists insurance companies with a broad range of regulatory issues affecting the business of insurance. Monthly contributors to “Zoning In” include: Susan T. Stead (614-221-7543, sstead@nldhlaw.com), Molly E. Lang (614-456-1634, mlang@nldhlaw.com), Scott G. Paris (212-233-2716, sparis@nldhlaw.com), and Benjamin C. Chynsky (212-233-2974, bchynsky@nldhlaw.com).

The above material is for informational purposes only and should not be construed as legal advice, nor is it designed to create any attorney-client relationship.
State Chapter News

Louisiana
by Linda Gonzales, State Chair

The Louisiana Chapter held a State Chapter Meeting on October 4, 2012. The speaker was Darie Jordan, Legislative Coordinator. Ms. Jordan presented “2012 Legislative Review” with a PowerPoint presentation that provided valuable updates to 2012 Louisiana legislation that was enacted.

There were 27 attendees.

The Louisiana Chapter announced its 2013 officers during its November 13, 2012 meeting. The officers for the next year are as follows: President – Kallie Somme (Life and Annuity Division); Vice President – Stephan Guilbeau (Market Conduct Division); Secretary – Angelle Hayes (Company Licensing Division); Treasurer – Lori Gasior (Producer Licensing Division); State Co-Chairs – Ben Darnell (Office of Property and Casualty) and David Evans (Office of Property and Casualty).

The Louisiana Chapter held a State Chapter Meeting on November 13, 2012. The speaker was Ron Henderson, Deputy Commissioner of Consumer Advocacy. Mr. Henderson presented “What Is Consumer Advocacy” with a PowerPoint presentation that provided valuable insight into this subject.

There were 30 attendees.

New Members
Welcome!

The following members have joined IRES since the last issue of The Regulator®. Visit the online member directory to learn more about them—and please join us in welcoming them!

GENERAL MEMBERS
★ Monica Branson
★ Chad T. Bridges, CFE, MS
★ Maxine Brooks
★ Laura Buck, AIE
★ Donna Daniel, ID
★ Michael E Dolphin
★ Mark J. Duffy, CIE, MCM, CPCU, CT
★ Patricia R Gabriel
★ Lawrence (Jeff) Gross
★ Samantha Gross
★ Terri Guidry, LA
★ Andre J. Ham, MCM, unaffiliated

★ Robin Hill
★ Song Hee Hong
★ Cindy M Horne, ID
★ Robert L. Howe, CIE, CFE, CGFM, AIR, nonvoting
★ Melissa L. Hull, MCM, JD, nonvoting
★ Mary G Kempker, AIE
★ Denise Lamy
★ Ingrid Marsh
★ Dee Dee Mathews, LA
★ Nicholas Mitchel
★ Carol D. O’Bryan, AIE, CPCU, MCM, ARC, ACP, CO
★ Darcy Paskey
★ Mark Plesha, CPCU, IR, AIS
★ Mary K. Richardson
★ Patrick Smith
★ Joanna Sutton
★ James C. Williams, MCM, CPA, CFE, CIE, unaffiliated
★ James Young

New Designees
Congratulations!

The following members have received their Accredited Insurance Examiner (AIE™), Certified Insurance Examiner (CIE™), Certified Insurance Consumer Service Representative (CICSR™), or Market Conduct Management (MCM™) designation since the last issue of The Regulator®.

AIE™
★ Laura Buck, AIE
★ James Burch, MCM
★ Ray K Conover, AIE
★ Bryan J Fuller, AIE, MCM
★ Shelly Herzing, AIE, MCM, MO
★ Mary G Kempker, AIE
★ Jeffrey L. Shelton, AIE, MD
★ Candace B. Walker, AIE, MCM, DE

MCM™
★ Jean Rita Adams, MCM
★ Claudia Avanesyan, MCM

Please join us in congratulating them!

Northwest Attractions: Washington Coast

The Washington Coast is a mixture of rocky beaches, lots of sand, and trees growing into the water. West and north from Portland will take you to the Washington Coast—across the bridge in Astoria, then north to Ilwaco, Long Beach, and more. Go far enough, and you’ll end up in Forks, home to the Twilight series.

www.nwcoast.com/washington • www.funbeach.com

continued on page 21
Help Wanted!!!

Are you good with words? Know lots about P&C insurance? Ever wanted to be in advertising? If so, IRES has some opportunities for you!

- **The Regulator** is looking for a person to be our Advertising Coordinator, coordinating advertisements and ensuring that they're in compliance with our advertising guidelines.
- The Designation Assistance Program is looking for a P&C guru who is willing to facilitate a webinar study session for Property & Casualty class students.
- IRES is looking for State Chairs for CT, ND, PA, VT, and WY.
- **The Regulator** is still looking for a permanent editor. If you want to try your hand at this important position, let us know. The current co-editors will let you work side by side with them for the next issue so you can see if it's the right position for you.

If you're interested in any of these opportunities, please contact IRES at info@go-ires.org.

**Northwest Attractions: Portland and Multnomah Falls**

Portland is a beautiful city in itself. Don't want to rent a car? Here are some things to do just in the local area. Also within easy access is Multnomah Falls. Get up close and personal with this exciting and beautiful natural wonder.

www.travelportland.com • www.oregon.com/attractions/multnomah_falls

**Hot off the presses: Join us for a new IRES Webinar on March 8!**

Hear about changes to the NAIC Complaint Coding System and what that means for Market Analysis. Watch for more information coming your way soon!
Copyright 2013 Insurance Regulatory Examiners Society. All rights reserved. Contents may not be reproduced without permission. Opinions expressed by authors are their own, and do not necessarily reflect the policies or opinions of IRES.

To submit articles, photographs, or calendar items, contact: IRES, 1821 University Ave W, Ste S256, St. Paul, MN 55104; email TheRegulator@go-ires.org; phone 651-917-6250; fax 651-917-1835.

IRES BOARD OF DIRECTORS

Officers
Mark Hooker, CIE, MCM, West Virginia, President
Holly Blanchard, AIE, Nebraska, President-Elect
Parker Stevens, CIE, MCM, Unaffiliated, Vice President
Joe Bieniek, AIE, MCM, NAIC, Treasurer
Stacy Rinehart, CIE, MCM, CICSR, Kansas, Secretary
Tom Ballard, CIE, MCM, Georgia, Past President
Tanya Sherman, MCM, Delaware, At-Large

Directors
Lee Backus, MCM, District of Columbia
Lynette Baker, MCM, Ohio
Betty Bates, District of Columbia
Andrea Baytop, Virginia
Don Bratcher, CIE, MCM, Arkansas
Polly Chan, CIE, California
Benjamin Darnell, Louisiana
Dudley Ewen, AIE, MCM, Unaffiliated
Bob Flege, CIE, MCM, Georgia
Donald Hale, Alaska
Angela Hatchell, North Carolina
Martha Hazen, Kansas
Martha Long, CIE, MCM, Missouri
Tom McIntyre, CIE, MCM, CICSR, West Virginia
Ashley Natysin, CIE, MCM, CICSR, Wisconsin
Eric Nordman, CIE, NAIC
Cristi Owen, MCM, Alabama
Douglas Pennington, CIE, MCM, CICSR, Federal
Kallie Somme, Louisiana
Nancy Thomas, CIE, MCM, Delaware

THE REGULATOR® EDITORIAL STAFF
Leslie Krier, AIE, Editor
Lynette Baker, MCM, Associate Editor
Carla Bailey, CIE, Associate Editor
Brenna Mohr, Layout Editor

Publications Committee:
Stacy Rinehart, CIE, MCM, CICSR, Chair
Lynette Baker, MCM, Vice Chair and Co-Editor
Leslie Krier, AIE, Co-Editor
Members: Carla Bailey, Polly Chan, Dudley Ewen, Rosemarie Halle, Wanda LaPrath, Jo LeDuc

CONTRIBUTORS
Joe Bieniek, AIE, MCM, NAIC
Benjamin C. Chynsky
CRO Council
David G. DelBiondo, CPA
Kathy Donovan
Douglas A. Freeman
Linda Gonzales
Mark Hooker, CIE, MCM
Jenny L. Jeffers, CISA, AES
Leslie Krier, AIE
Jason M. Kurtz
Molly E. Lang
Bill McDonald
Eric C. Nordman
Scott G. Paris

MARK YOUR CALENDAR – continued from page 1

May 1-3, 2013
MCM™ Designation Course
Savannah, GA

June 12-14, 2013
MCM™ Designation Course
Richmond, VA

July 28-31, 2013
Career Development Seminar & Regulatory Skills Workshop
Portland, OR

July 31-August 2, 2013
MCM™ Designation Course
Portland, OR

October 21-23, 2013
MCM™ Designation Course
Madison, WI

Watch the calendar at www.go-ires.org for more upcoming events.

Coming soon: your ad here!
If you’re interested in advertising in The Regulator®, contact the editor at TheRegulator@go-ires.org.

NEXT ISSUE

Don’t miss our next issue due out about May 1. We will be looking at multi-state exams, blanket insurance, forensic IT, and more. If you have ideas for stories, please let us know—we’re always happy to take suggestions!

We always have room for another article, so submit your ideas to www.go-ires.org/newsletter/submit.

Your The Regulator® staff – Leslie, Lynette, Carla, and Brenna

Contact us at TheRegulator@go-ires.org.