Cloud Computing Risks 2020

The Cloud defined

If you have a Gmail account or a Facebook page, you are creating and storing data in “the Cloud,” which we now take for granted in personal and business computing. The Cloud, as defined by Microsoft, is a metaphor for a global network of remote servers that operates as a single ecosystem, commonly associated with the internet. According to Forrester Research, organizations worldwide spent more than $170 billion on cloud services last year and are on pace to spend nearly $240 billion by 2020. Now that the Cloud is pervasive, it’s essential to understand the risks and responsibilities of businesses that adopt cloud technology, particularly insurers and their third-party administrators (TPAs). Insurers who choose to use cloud services should know where their systems and data reside, how data is protected, and whether it will always be available.

The largest cloud providers are Amazon AWS, Google (Alphabet), and Microsoft, which includes Azure. All offer different flavors of cloud services. A skilled network administrator can lease a virtual server on Amazon or Windows and have it up and running in a matter of minutes. Cloud vendors price services based on computing power, the volume of data storage, and the speed of data access. Smaller regional cloud service providers offer similar services, leasing servers, and data storage in specially designed data centers.

Hybrid environments are increasingly common, whereby email and file storage is cloud-based, but business servers and data remain in-house or in a nearby collocated data center facility. Many insurers now subscribe to Microsoft Office 365 because it removes the need for email servers and their administration, and it comes bundled with file storage, Office apps, and services such as email spam filtering and malware protection.

CONTINUED ON PAGE 2
Why are companies migrating to the Cloud?

Economics drives the ubiquity of cloud computing. Cloud services eliminate the cost of owning and managing a secure data center, with its redundant power and network connections and the salaries of skilled 24x7 staff. Scalability is another significant advantage. Because cloud services follow the pay-per-use model, growing enterprises can add computing power and storage as needed; and when downsizing, they can quickly reduce the resource expense. Cloud vendors usually offer the highest network speeds through multiple communication networks such as Spectrum, AT&T, and Verizon. The business client can right-size the bandwidth needed to support their operations, like web-based agent and policyholder portals.

The most frequent cloud services in use by insurers are cloud-based disaster recovery (DR) platforms. Historically, a challenge to disaster recovery was finding a secure data center in a remote location that would not be affected by a Company's local disaster. Cloud services are perfect for this. Data and servers are backed up or continuously synchronized in one or more remote cloud facilities. Since the virtual DR resources are available but idle until needed, costs are significantly less than owning spare computer and network hardware.

High availability is perhaps the key selling point of cloud services. Because cloud servers are "virtualized," they can be backed up and moved, or they can run on multiple physical servers simultaneously for fault tolerance. If a hardware chip or disk drive fails, the server can use alternative hardware instantly, transparent to the end-user. Availability guarantees in service level agreements (SLAs) assure business clients that their operations will not be affected by outages, or if they are, it should be infrequent. The typical service level standard is 99.999% ("five nines"), meaning that unplanned downtime will be only 5.26 minutes per year—statistically speaking.

The Downside

Stuff happens. Human error and hardware failure can occur in any data center. But when large cloud data centers have problems, they inevitably affect hundreds of businesses, regardless of the service level promises. In March 2017, human error at Amazon's AWS data center in Virginia caused an outage lasting several hours and took down business web sites across the US. In another case, a Microsoft authentication system error blocked email routing (including the author's) for several days in 2018. More recently, Microsoft cited a "networking update" for an outage that took down services including Exchange email, Skype, and SharePoint (file storage) services in parts of the US, Australia, and Asia intermittently for several days. Cloud computing may not be the best solution for mission-critical operations. While several hours of downtime might not have much impact on life or P&C insurers, delays in the authorization of a medical procedure could present serious problems for health insurers and patients. Outages may prove costly to InsureTech companies that rely heavily on cloud resources to store and analyze data while using compute-intensive artificial intelligence to underwrite and bind policies instantly.

Many large insurers still maintain their own data centers because they can afford it and choose not to give up control over proprietary systems and sensitive data. There are downsides to outsourcing, and cloud computing is no exception. The Uptime Institute, which conducts an annual survey of data centers, sheds light on the frequency and causes of data center outages, ranked by severity. While the severity of outages declined slightly in 2019, moderate impact outages were on the rise. Respondents in the 2018 Uptime Survey classified 80% of outages as preventable, which reflects on data center management decisions. The Uptime report also noted that when data centers report interruptions to the public, they provide little or no commentary. Sometimes data centers do not admit to outages at all.

Cloud services providers cannot eliminate all data security risks. AWS, Google, and Microsoft employ encryption and multiple layers of intelligent devices to protect them from hacking and ransomware attacks. But a design error, misconfigured server, or faulty login process can quickly expose sensitive personal or financial data. In October 2019, Google announced that it would shut down the Google+ member service because the company discovered through an internal audit that a bug had exposed 500,000 user's data for about three years.

For obvious reasons, cloud service employees should not have access to client data, but enforcement of this rule is complicated, especially when...
technicians need administrative access for troubleshooting and repairs. In 2018 an offshore service provider, Continuum, which marketed 24-hour server and network monitoring, configured their remote administration app to use a single shared password. The password was subsequently discovered by hackers and used to compromise business servers and steal data from hundreds of US companies. Insurers opting for the Cloud must have a clear understanding of risks to data security and who has access to sensitive policyholder data.

Incidents can also occur between the cloud data center and the business office. Dependence on the internet poses a risk to operations when, for example, the claims department cannot connect to the server where the claims system resides. Hackers have successfully attacked internet exchange sites, where commercial networks like Amazon and Google networks interconnect and have disrupted internet traffic across entire regions.

One more hurdle faced by cloud-hosted businesses is that of portability and “vendor lock-in.” Virtual environments come in many flavors. Data processing in a cloud environment is dependent on the cloud providers’ proprietary systems. Should the company decide to move from one cloud service to another, the servers and data may not go smoothly; portability challenges should be transparent before migrating to the Cloud. Companies should also consider data portability during mergers and acquisitions—how do you get the data back out of the Cloud?

Cloud Risk Management

Insurers who move their data and operations to the Cloud must take steps to reduce the risks to policyholder services and data, beginning with a careful cost-benefit analysis and business impact study. The company should select a cloud provider based on the precise business needs, the reputation of the provider, and clearly defined service level agreements.

We currently have a wide array of data security standards and compliance guidelines, which can help in assessing a given cloud provider’s risk profile. The AICPA’s SOC1, SOC2, and SOC3 attestations describe the effectiveness of operational and data security controls (SOC3 to a lesser degree). Following best practices, insurers should only choose data service vendors who will provide annual SOC1 or SOC2 attestations, depending on the services offered. Cloud services should issue SOC2s which cover IT operations management and data security. Client management should study the annual SOC reports to understand and address any control weaknesses or gaps.

Some cloud providers also meet stringent International Organization Standards, specifically ISO 20000-1 & ISO 27001, and will undoubtedly advertise when they do. The process to become ISO 20000-1 certified includes a multi-stage audit process in the first year focused on IT service management and followed by annual surveillance reviews completed by an accredited certification body. ISO certified entities are less likely to have outages because they proactively address known risks and have well-defined incident response plans.

There is no official, legally recognized HIPAA compliance certification process or accreditation. But insurers should insist on HIPAA compliant services because it implies that logical security controls are in place to protect sensitive data, such as personal identity, financial, or health-related data.

As noted earlier, service level agreements (SLAs) are vital in defining the cloud provider’s responsibilities and the resolution process when things go wrong. The best SLAs work for both sides, but often require edits by the legal department before they are signature ready. While most agreements include penalties for non-compliance, such as service credits or refunds for outages, they seldom match the real cost to the client. If it comes time to dissolve the relationship, termination clauses favoring the provider may lead to costly litigation and delays in moving to a new provider.

In summary, regulators should be aware of evolving technology risks like those of the Cloud and understand the potential impacts of cloud computing on policyholders and insurers. Careful cost-benefit analysis, a thorough vendor selection process, and well-designed SLAs help mitigate insurers’ cloud computing risks.

References:

1) https://azure.microsoft.com/en-us/overview/what-is-the-cloud/

ABOUT THE AUTHOR:

Michael Morrissey is the Principle of Morrissey Consultants, LLC, based in Durham, NC. Michael specializes in the analysis of insurance systems, policy and claims data, and cybersecurity. He has over 20 years of IT experience, most of it within the insurance industry, first as an IT Director at Cigna and then as an IT security and compliance auditor, consulting for numerous state insurance departments and CMS/CCIIO. Michael has broad experience in support of market conduct and financial examinations, insolvencies, and receivables. He has delivered IT training presentations at IRES, SOFE, and IAIR conferences and holds the certifications of AMCM, AES, CISSP, and CISA.
The renewal season is here.

At the end of every year, I get requests to renew my membership to three different professional organizations. Including my IRES membership, all my membership renewals are due on January 1. The reminders to renew begin in October. Around Thanksgiving, I get my next set of reminders. Thanksgiving and Christmas fly by and now the actual due date arrives.

The reminders to renew come to my work email address alongside many more pressing emails. With the best of intentions, I keep them in my inbox. I don’t delete them because I have every intention of renewing once I get my real work done. That’s not entirely true. When I get my second reminder, I delete my first reminder and now the new reminder is at the top of my inbox where I don’t have to scroll to see it. I usually pay my renewal dues about 2 weeks into the new year.

I suspect we are all like that with our renewal dues. We happily procrastinate until the last moment, then we uneasily procrastinate until many weeks later.

Fortunately, I belong to organizations dedicated to serving their members. I don’t get hit with late fees and am always graciously welcomed back into the fold. This, even though without membership dues, they would have to shutter their doors. And that would be a loss for all the professionals benefiting from their services and the volunteers working behind the scenes to enable the organizations to fulfill their goals.

This is especially true for IRES. IRES is dedicated to serving the insurance regulatory community. We provide regular webinars, designation courses, an annual Career Development Seminar (CDS) and user forums for discussion. Our members are state departments of insurance regulators, company compliance professionals and consumer organizations. Communication channels are developed, and friendships are built.

Ultimately, market conduct regulation and compliance are improved, and consumers are better protected.

But it all begins with our members and it can’t be done without dues.

I admit, I was late with my dues. If you are late with yours, I encourage you to scroll down to near the bottom of your email box, open the reminder, and renew your membership. IRES needs you. ■

President’s Remarks

Randy A. Helder

559 general members

130 sustaining members

689 total members
Leadership of Market Regulation and Consumer Affairs (D) Committee

Commissioner Allen W. Kerr (AR) was appointed as Chair of the D Committee and Commissioner Barbara D. Richardson (NV) was appointed the Vice-Chair. For the three task forces reporting to the D Committee, Commissioner Trinidad Navarro (DE) was appointed Chair of the Antifraud (D) Task Force and Director Jillian Froment (OH) was appointed Vice-Chair. Director Lori Wing-Heier (AK) remains the Chair of the Market Information Systems (D) Task Force and Director Chlora Lindley-Myers (MO) remains the Vice Chair. Finally, Director Larry Deiter (SD) will now serve as Co-Chair of the Producer Licensing (D) Task Force with Superintendent Elizabeth Kelleher Dwyer (RI).

Data and Privacy Protections

Data and privacy will continue to be a priority topic for the Market Regulation and Consumer Affairs (D) Committee and for the entire NAIC Membership. The Privacy Protections (D) Working Group is charged to review state insurance privacy protections regarding the collection, use and disclosure of information gathered in connection with insurance transactions, and make recommended changes, as needed, to certain NAIC models, such as the NAIC Insurance Information and Privacy Protection Model Act and the Privacy of Consumer Financial and Health Information Regulation.

The Working Group began its work at the end of 2019 with a discussion of standards in NAIC privacy models, the General Data Protection Model Regulation, the California Consumer Privacy Act, and recent state privacy legislation. These discussions are helping inform the Working Group of what industry requirements and consumer rights might be appropriate for the collection, use and disclosure of information gathered in connection with insurance transactions and whether these are appropriately addressed in NAIC models. Concepts being discussed include disclosures to consumers regarding the sources of information used, consumer access to recorded personal information, and a consumer’s right to amend personal information being used.

The Working Group will continue discussing these issues in the first quarter of 2020 and will draft amendments to NAIC models, if needed, during the second quarter of 2020. While a very aggressive timeline, the Working Group’s current workplan calls for a final product to be presented to the Market Regulation and Consumer Affairs (D) Committee at the NAIC Summer National Meeting in August.

Big Data and Innovation

While not under the Market Regulation and Consumer Affairs (D) Committee, I want to provide some clarity regarding the various workstreams across the NAIC. The NAIC’s Innovation & Technology (EX) Task Force will continue to provide forums, resources and materials for the discussion of innovation and technology developments in the insurance sector. The Artificial Intelligence (EX) Working Group is developing guiding principles regarding the use of artificial intelligence and the Big Data (EX) Working Group will continue to assess insurers’ use of consumer and non-insurance data in insurance. Part of this work will entail a review of the current regulatory framework for the oversight of these practices. However, as issues specific to a line of insurance arises, the Big Data (EX) Working Group will continue to refer these issues to the appropriate subject matter groups. Because of this, the Casualty and Actuarial Statistical (C) Task Force will continue to focus on the use of data and predictive models in P&C rate filings and the Accelerated Underwriting (A) Working Group will continue to consider the use of external data and data analytics in accelerated life underwriting.

CONTINUED ON PAGE 6
Market Conduct Annual Statement and Market Analysis

Turning to market analysis, the Market Analysis Procedures (D) Working Group adopted “Other Health” in the Fall of 2019 as a new line of business for the Market Conduct Annual Statement (MCAS). With this, the Market Conduct Annual Statements (D) Blanks Working Group will begin working with subject matter experts to develop a new MCAS blank. Another important effort in 2020 will be the Market Analysis Procedures (D) Working Group’s review of market analysis procedures in the NAIC Market Regulation Handbook.

For companies filing MCAS data with states through the NAIC MCAS application, there are two important developments. Disability income MCAS data will be collected for the first time beginning with the 2019 data year. The filing deadline for disability income data is June 30, 2020. In addition, state insurance regulators have extended the Health MCAS filing deadline to June 30, 2020. All other MCAS data submissions are due April 30, 2020.

Standardized Data Calls and Exam Standards

In addition to the data blanks created by the Market Conduct Annual Statement (D) Blanks Working Group, the Market Conduct Examination Standards (D) Working Group is developing a suite of standardized data requests regulators may use for market conduct examinations. The Working Group is beginning 2020 by developing two standardized data requests for the Farmowners & P&C Line of Business. The Working Group is also developing new Limited Long-Term Care Insurance examination standards.

Voluntary Market Regulation Certification Program

While there has not been too much focus placed on this program recently, the Market Regulation Certification (D) Working Group continues to review suggested revisions to the Voluntary Market Regulation Certification Program. These revisions are being suggested by the 18 jurisdictions that participated in the pilot program. The jurisdictions conducted self-assessments on how completely they comply with the 12 certification requirements that address such areas as statutory authorities, appropriate levels of qualified market conduct staff, collaboration with other jurisdictions, participation in market regulation working groups, and reporting data to NAIC market information databases. The Working Group is charged to present a finalized draft of the revised program to the Market Regulation and Consumer Affairs (D) Committee at the 2020 Spring National Meeting. The members of the Committee will then decide what are the appropriate next steps for the program.

Independent Adjuster Licensing

The Producer Licensing (D) Task Force will be taking a closer look at the licensing uniformity and reciprocity for Independent Adjusters. While the NAIC adopted an Independent Adjuster Licensing Guideline in 2008 and Independent Adjuster Reciprocity Best Practices in 2011, industry representatives have raised policy concerns over the effectiveness of state-based regulation to create a national system of licensing uniformity and reciprocity for Independent Adjusters. As a result of these concerns, The Claims Licensing Advancement for Interstate Matters (The CLAIM Act) is being discussed at the federal level. In summary, the CLAIM Act would preempt state Independent Adjuster licensing laws by requiring states to adopt uniform licensing and reciprocity rules within four year. The Producer Licensing (D) Task Force will be seeking additional input from industry and regulators to understand the current practices around examinations, fingerprinting, license renewals, and continuing educations and how best to ensure uniform and reciprocal licensing in states.

NAIC Market Information Systems

The Market Information Systems (D) Task Force will continue to provide business expertise regarding the desired functionality of the NAIC Market Information Systems and the prioritization of regulatory requests for the development and enhancements to the NAIC Market Information Systems. One specific area to watch in 2020 is the review of codes for the NAIC’s Regulatory Information Retrieval Systems (RIRS).

Antifraud

The Antifraud (D) Task Force will continue to maintain and improve electronic databases regarding fraudulent insurance activities, such as the Online Fraud Reporting System, and provide a liaison function between insurance regulators, law enforcement (federal, state, local and international) and other specific antifraud organizations.

For anyone wanting additional information about the activities of the Market Regulation and Consumer Affairs (D) Committee, its Task Forces, and Working Groups, please visit the following Web link on the NAIC Website: [https://content.naic.org/cmte_d.htm](https://content.naic.org/cmte_d.htm).

ABOUT THE AUTHOR:

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requirements for a value-added service or program that would be deemed not in violation of Connecticut law: (1) have a legitimate nexus to the value of the insurance coverage provided by the insurance contract; (2) be filed for approval within previously approved or new product contracts with loss mitigation/value-added services and programs listed inside brackets to indicate the variable nature of each offering within the contract, and in addition, an annual filing amending previously approved filings be made for any updates or revisions to the variable offerings within the contracts, if necessary; and (3) be offered or provided in a fair and nondiscriminatory manner to like insureds. Examples of such products and services are leak prevention systems, telematics devices, home sensors, fire prevention services, biometric wearables, and other connected devices. Additional guidance is provided concerning products and services offered at no cost or at a discounted cost.

Pennsylvania

Notice 2020-01, dated Jan. 4, 2020, increases the minimum accident surcharge threshold cap applicable to certain adverse actions related to private passenger automobile insurance policies from $1,700 to $1,800 effective July 1, 2020. Insurers are not permitted to “penalize their policyholders (for example, apply rate surcharges or otherwise increase premiums) whose aggregate claim cost over a 3-year period does not exceed a certain threshold (cap). This threshold (cap) applies to any person injured or property damaged and is measured in excess of any deductible or self-insured retention.” Additionally, insurers are not permitted to cancel or nonrenew or apply a rate penalty or driver record point assignment when the threshold (cap) is not exceeded. The Notice further addresses rate/rule filing provisions for the revisions required to be filed to incorporate this threshold change.

Vermont

Bulletin 206, dated Dec. 4, 2019 provides clarification concerning the Department of Financial Regulation’s position regarding the use of virtual adjusting in the settlement of motor vehicle partial and total loss claims. Specifically, it is “the Department’s position that insurers must provide an in-person inspection of a damaged vehicle by a licensed adjuster within a reasonable period of time if requested by a claimant. Insurers may not deny a claimant’s request for an in-person inspection by an adjuster on the grounds that the claimant initially elected to use a virtual adjustment system. Unreasonable delays in making an adjuster available for an in-person inspection may, in appropriate circumstances, be considered a violation of Section 4724(9)(F)’s obligation to effectuate prompt settlements of claims in which liability has become reasonably clear.” The Bulletin further reminds auto insurers that, “in adjusting total losses, costs such as vehicle reconditioning and tune-up may not be deducted from a settlement offer unless “such deductions are justified and detailed as a result of an actual inspection by [a] licensed adjuster or appraiser”, with the term of actual inspection meaning an in-person inspection by an adjuster or appraiser rather than the use of virtual evidence.

SOUTHEAST ZONE

Alabama

Effective Jan. 1, 2020, Chapter 482-1-164 of the Alabama Administrative Code establishes requirements for the licensing of pharmacy benefit managers including operational definitions, licensing and renewal requirements, instructions for on-line licensing, applicable fees, provisions for subsequent changes in name and address, enforcement penalties and provisions for licenses that are suspended or revoked.

Puerto Rico

Ruling CN-2020-256-D, dated Jan. 13, 2020, addressed “Seismic events in January 2020 – exclusions of coverage for unoccupied or vacant property”, stating that as a consequence of the recent seismic activity, “residents of Puerto Rico, particularly in the southwest area, have been relocated or otherwise forced to temporarily abandon their homes and/or property.” The Commissioner of Insurance has stated in this Ruling Letter that “all insurers that are authorized to contract property and casualty insurance in Puerto Rico may not deny any claim of an insured who has been relocated from their home or property by any competent state or federal authority or who has been forced to temporarily abandon their home or property under reasonable circumstances, which would otherwise be covered, because the property was unoccupied or vacant. Any provision in the insurance contract regarding exclusion of coverage because of the property being unoccupied or vacant will not be applicable under the aforementioned circumstances.” This Ruling Letter further states that its provisions “will not be applicable to insureds who had abandoned their properties permanently, before January 6, 2020” and that the guidelines established “will be in effect from the date of this Ruling Letter until the end of the state of emergency or when the Commissioner of Insurance suspends the effect thereof, whichever occurs first.”

Virginia

Effective Jan. 1, 2020, newly adopted rules 14VAC5-101-10 through 14VAC5-101-120 establish updated “Rules Governing Life and Health Forms Filings” provisions including form and filing requirements, readability requirements, variability provisions, documentation and certificate of compliance requirements, as well as and provisions for out-of-state and multiple employer welfare arrangements filings.
Zoning In (continued)

MIDWEST ZONE

Michigan

Bulletin No. 2020-01-INS, dated Jan. 14, 2020, addresses recent statutory changes under Public Acts 21 and 22 (2019) that allow individuals who have qualified health coverage (QHC) to make certain choices regarding their no-fault coverage. This Bulletin states that “health insurers and health plans should develop a document that indicates whether a person’s coverage is "qualified health coverage" for purposes of no-fault insurance under MCL 500.3107d(7)(b)(i).” A document that includes the following information would be considered compliant:

- The full names and dates of birth of all individuals covered under the policy or plan; and
- A statement: (a) as to whether the coverage provided constitutes "qualified health coverage" as defined in MCL 500.3107d(7)(b)(i), or (b) that the coverage does not exclude coverage for motor vehicle accidents and has an annual deductible of $6,000 or less per covered individual.

The Bulletin further indicates that the current specified annual deductible maximum will be adjusted by the Director annually beginning on July 1, 2020 and that coverage documents issued to Michigan residents must reflect the current deductible maximum for the applicable policy or plan year. Additional guidance is provided concerning letters regarding the coordination of no-fault insurance benefits with health coverage.

South Dakota

The Office of the Commissioner of Insurance (OCI) issued a The South Dakota Division of Insurance announced the results of its review of limited duration long-term care products in its Bulletin 19-03 dated Dec. 2, 2019, However, after that review, the Division concluded that "Despite some similarities to long-term care products, these products would not fall within the requirements in the long-term chapter of the Insurance Code. Product and rate review must be done via SERFF. Rates will be reviewed for reasonableness in relation to benefits."

CONTINUED ON PAGE 9

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Oregon

Bulletin 2020-1, dated Jan. 14, 2020, reminds insurers about the Division’s policy with regards to pre-dispute mandatory arbitration clauses, choice of law provisions, and choice of venue provisions in insurance policies and indicates that such provisions are prohibited in all lines of insurance. The current guidance to insurers states that “insurance policies may not contain pre-dispute mandatory arbitration clauses, choice of law provisions, or choice of venue provisions. Any policy form filing containing these provisions will be disapproved.”

Nevada

Bulletin 20-001, dated Jan 13, 2020 addresses the new “Health Carrier Provider Denial Letter” which was required to be developed and prescribed by the Commissioner under SB 234 (2019). This letter must be used to notify a provider of health care, as defined in NRS 687B.660, NRS 695G.070, and NRS 686A.2825, of the denial of the application to be included in the carrier’s network of providers. The “Network Denial Form Letter” is available at http://doi.nv.gov/Insurers/UfeHealth/Required-Industry-Reports/. Further guidance on the use of this form is provided in the Bulletin and includes information on the following topics:

- Use of the provider denial letter, including adjustments and minimum information;
- Submittal of copies of the provider denial letters to the Commissioner via SERFF;
- Entities that are required to comply; and
- Timeliness of submission of denial letters.

Washington

Effective Aug. 1, 2020, WAC 284-30-770 (Rule) will require specific adverse notification requirements for certain actions and is intended “To increase consumer awareness of available agency assistance and to help consumers with their insurance questions by requiring contact information for the Office of the Insurance Commissioner on adverse notifications.” For purposes of this new Rule, adverse notification is generally defined as a notice, statement, or document from the insurance entity categories listed in the Rule describing one or more of the following: a claim denial; a final claim payment for less than the amount of the claim submitted, with exceptions; an adverse benefit determination; and rescission, cancellation, termination or nonrenewal of a policy unless initiated by an insured, with exceptions.

Each applicable adverse notification must include the following information: “If you have questions or concerns about the actions of your insurance company or agent, or would like information on your rights to file an appeal, contact the Washington state Office of the Insurance Commissioner’s consumer protection hotline at 1-800-562-6900 or visit www.insurance.wa.gov. The insurance commissioner protects and educates insurance consumers, advances the public interest, and provides fair and efficient regulation of the insurance industry.” Additionally, the Rule mandates that this new notice language “must be in the same font type and not less than the font size of the majority of the notification. This notice must appear on the first page, at the end of the adverse notification, or where this notice currently exists if adverse notices are already provided to insureds.”

ABOUT THE AUTHOR:

Kathy Donovan is Senior Compliance Counsel, Insurance with Wolters Kluwer Financial Services. Kathy has more than two decades of experience in insurance compliance. Her expert commentary on legal and regulatory issues affecting the insurance industry is widely published and she is a regular presenter at various industry events.

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CDS 2020

CAREER DEVELOPMENT SEMINAR

AUGUST 16-19 / ENGLEWOOD, COLORADO
This is the first in a series of in-depth articles about the National IRES Continuing Education (NICE) Program. The series will begin with tips on how to complete the continuing education (CE) submission form on the IRES website. Future articles will cover what constitutes proof of completion, what qualifies for CE credit under the NICE Program, determining how much credit an educational event is worth, and how to read your CE transcript.

Completing the CE Submission Form

The CE Submission Form can be found by logging into your IRES account and navigating to the Professional Development area.

The top portion of the page includes information about the NICE Program and links to additional information about the program. The balance of the page includes information about your continuing education submissions (Journal Entries tab) and your progress toward meeting the NICE Program requirements for the current compliance period (Certifications/Programs tab).

By default, when you go to the Professional Development area of the IRES website it opens on the Journal Entries tab. This tab lists of all your continuing education submissions since 2014 and an entry for each IRES designation earned. Report CE by clicking on the ‘+Add Entry’ button just above the list of your CE submissions. Doing so will open a new CE submission form.

The balance of this article will walk you through the submission form and provide guidance on how to complete each field.

Certification/Program

The Certification/Program field is where you indicate that you are reporting CE credits under the NICE Program. While there is only one option available for members to select (NICE Program Requirement), it is important that you select it from the drop-down menu during the submission process. If you don’t select the NICE Program Requirement in the Certification/Program field, your submission will not be automatically put into the queue for review and may not be processed by IRES.

Credit Type

The Credit Type field of the submission form is where you tell IRES which type of credit you are reporting. The current Credit Type options are:

1. Courses & Seminars
2. Published Articles
3. Speaker/Panel Participation
4. Reachback Credit
5. Extension Credit
6. MCM Program
7. MCM Certification Examination
8. AMCM Class
9. AMCM Certification Examination
10. IRES Committee Service
11. Designation Awarded
12. IRES Webinar

When reporting CE, you should use one of the first 5 types listed above. The balance of the Credit Types should only be used by the IRES office. Unfortunately, system constraints prevent IRES from hiding the credit types used for administrative purposes in your view of the submission form.
Education Corner (continued)

Entry Date
IRES uses the Entry Date field to record the day that you earned the CE credit being reported. When reporting CE, the Entry Date on the submission form defaults to the current date. It is important for you to change the Entry Date to the date the CE credits were earned. We are aware that the name of the field and it defaulting to the current date can cause some confusion; however, systems limitations prevent IRES from giving the field a more intuitive name or preventing the current date from being the default entry.

Description
The Description field should contain the name of the course or other educational event being submitted. If possible, you should include the name of the sponsoring entity in the title. Here are a few examples of some well-crafted Descriptions that make it easier for the IRES office to process your submission and for you to read your CE transcript later on.
• NAIC - Accreditation Update Webinar
• LOMA 290 - Insurance Company Operations
• CPCU 520 - Insurance Operations
• CIPR Webinar - The Use of Drones in Insurance
• SOFE - 2020 CDS

Credits
The Credits field is where you enter the number of CE credits earned. When entering the number of CE credits, please keep in mind that the NICE Program has a 12-hour maximum credit rule. This means that the maximum number of credits that will be granted for any single education event is limited to 12. If you enter more than 12 CE credits and the event doesn’t qualify for one of the exceptions to the rule, the IRES office will amend the number of credits reported to 12 when processing your submission. The current exceptions to this rule are attendance at:
• IRES Career Development Seminar
• IRES MCM® Program
• IRES Foundation Market Regulation School
• SOFE Career Development Seminar
The maximum credit hours for attendance at these events is 15.

Credits Expire
The Credit Expire field signifies the compliance period to which the credit applies. Except for Reachback Credit and Extension Credit, the Credits Expire date should be the last day of the compliance period for the CE being reported. For example, the current reporting year is September 1, 2019 to August 31, 2020. For all credits earned and reported during this compliance period, you should enter August 31, 2020 in the Credit Expire field.

Reachback Credit
The Reachback provision allows you to report and apply up to 3 excess CE credits earned in immediate prior compliance period to the current compliance period. If you are reporting Reachback Credit, you should enter the last day of the compliance period to which the credits are to apply – even though the credits were earned before the start of that compliance period.

CONTINUED ON PAGE 12
As an example, let’s say that you earned excess credits (more than 15 credits) last year and need to apply those credits to the current compliance period (September 1, 2019 to August 31, 2020). The course you want to apply to the current compliance period was completed on July 10, 2019. When you submit these credits, you should select the Reachback Credit type, enter July 10, 2019 in the Entry Date field, and enter August 31, 2020 in the Credits Expire field.

Extension Credit

Extension Credit is a credit type applicable to CE credits earned in the current compliance period but are to be applied to the immediate prior compliance period. Extension credit can only be used when you have applied for and received approval for an extension.

For example, let’s say you were unable to earn enough CE credit during the prior compliance period – September 1, 2018 to August 31, 2019. You applied for and received approval for an extension; giving you until August 31, 2020 to earn a total of 30 CE credits (enough credits to cover the current and prior compliance periods).

Credits that you earned during the current compliance period that need to be applied to the prior compliance period should use the Credit Type of Extension Credit. You should enter the actual day the credits were completed in the Entry Date field and enter August 31, 2019 in the Credits Expire field. Once you’ve reported enough credits to cover the prior period, the balance of credits reported should be reported as they would normally be reported for the current compliance period.

Score (%)

IRES is not currently using the Score (%) field. You should always leave this field blank when submitting CE.

Activity Code

You should also leave the Activity Code blank. This field is only for the IRES office to use for tracking purposes.

Attachments

To help ensure the timely and accurate process of your CE submission, please attach documentation to support your completion of the CE credit. You can also attach a copy of the course outline or agenda (if needed) to support that the CE submission meets the 50% insurance related rule of the NICE manual.

Complete NICE program details and reporting deadlines are contained in the NICE Program Manual. If you have questions, please contact the IRES office.
IRES Featured Member

This Issue: Michael S. Smith, CPCU, ARE, AIE

Who do you work for?  
What is your job title and role?

I work for the Commonwealth of Virginia, State Corporation Commission, Bureau of Insurance. I am the Manager of Commercial, Multi-Lines, Rates and Forms. I manage a staff of six examiners that review all rates and forms filings in Virginia for commercial, multi-lines coverages. For commercial lines in Virginia most of our rates are “file and use”, but forms require prior approval. It is my job and the job of my staff and to ensure that all filings are compliant with the Code of Virginia.

What are some of your biggest challenges?

Among our biggest challenges is just keeping up with increase in filings while striving for speed to market; that is, getting filings through the process quickly. We are monitoring and keeping apprised of such developments as: microinsurance, parametric insurance, and an increase usage of predictive models for their impact on our filing review process. The process is also getting more involved given the number of new cyber-products that companies seek to introduce. We are seeing various coverage versions of cyber coverage. Cyber-filings are typically written on a claims-made form and we revised our claims-made regulation in 2018. Beyond that, there is the challenge of finding and retaining great talent. The research and analytical skills we require are specialized and not always in great supply. It is important to retain and train those who have the skills necessary to get the work done. Finally, making time for training is always necessary, but never easy. Things are always changing. There are always new things to learn as I continue to acclimate myself to the regulatory side of our industry.

Where do you live? Tell us about your family.

I live about 20 miles west of Richmond in a town named Mosley, Virginia. I have lived in Virginia since 2010. By pursuing new opportunities, promotions, I find that I have been slowly working my way South for the last 15-20 years. Before Mosley, I lived in Pennsylvania for a time and in New York City before that. I am married with two grown kids. I also have a grandchild who just turned one year old in January. That’s a lot of fun!

How long have you been an IRES Member?  
What made you decide to join?

I have been a member since 2019, around the time I received my AIE designation. I joined IRES for a number of reasons. First, IRES has a great reputation. I received great feedback about IRES from fellow Bureau members who encouraged me to join. I’ve been impressed with IRES publications, The Regulator, and have found that publication to be informative and a valuable resource to me. Finally, as I mentioned earlier, keeping up with training and learning about new developments is always a challenge and IRES offers a number of educational opportunities that can help with that. As far as involvement on the committee level, I have not been involved so far, but hope to as responsibilities allow. I want to make sure I have the time and opportunity to make a meaningful contribution.

When you are not working, what are your passions/hobbies?

I like to play golf when I can. I also coach recreational basketball. Of course, I also like to spend time with family. Also, one of my hobbies is collecting coins; I am an avid collector of American coins and paper currency.

What do you see as your biggest accomplishments?

Personal or professional.

I’ve had the opportunity to see the insurance industry in a leadership role from a number of sides; company, broker, and now as a regulator. That experience has given me a unique and valuable perspective on the industry. I’ve also had the opportunity to lead during times of crises. Those are times that define a leader, build his or her character, and it’s been my good fortune to lead and lead well during those times. Those are things that, from a career perspective, can drive one’s personal brand. But probably my greatest accomplishment is that I have helped to mentor and develop leaders in our industry. There’s leadership in our region and in the industry that I have played a role in developing. That’s a footprint that you can measure.

Do you have any wise words for those that are new to insurance regulation?

Whatever your role, whatever you strive to do or be, seek authenticity and not approval as you go through your career. Celebrate your differences and unique characteristics that make you who you are. Be true to yourself. Also, seek to bring and add value to whatever you do. If you seek “success”, you will find that your definition of success will change over time. But bringing value to what you do, that will never go out of style. Finally, know that your toughest competitor is the person you see each day in the mirror. That’s the only person you should measure your continuous learning, hard work and career aspirations against.
CONGRATULATIONS TO OUR NEW MEMBERS

General Members

- Omar Akel, Nevada
- Carrie Backus, Utah
- Kyle Becker, Utah
- Lauren Childers, Kansas
- Ryne Davison, Mississippi
- Rena De La Garza, Texas
- Nate Dobler, Nebraska
- Melinda Domzalski-Hansen, Minnesota
- Marcus Elliott, Texas
- Kate Fabion, Illinois
- Joshua Gotwalt, Pennsylvania
- August Hall, Pennsylvania
- Cindy Lupinetti, Delaware
- Jessica Lynch, Florida
- Erik Macdonald, Delaware
- Karen Maybury, Utah
- Dennis Newman, Colorado
- Claude Rivera, Texas
- Corey Robinson, Texas
- Kaitlyn Rodeffer, Maryland
- Autumn Schafer, Nebraska
- Barrett Scheuermann, Louisiana
- Nicole Sherrod, Utah
- Amare Soares-Smith, Texas
- Anna Timothy, Utah

Individual Sustaining Members

- Ryan Anklam, Ally Insurance Group
- Bryce Ball, Guarantee Trust Life Insurance Company
- Theresa Cameron, Arch Mortgage Insurance
- Tara Fling, Farmers Insurance Group
- Diane Klund, Solera
- Michelle Netze, Solera
- Nancy Palmisano, Main Street America Group
- Alissa Priest, Clearcover, Inc.
- Jennifer Russo, FM Global
- Christine Thomas, Examination Resources, LLC

Firm Sustaining Members

- Chesapeake Employers Insurance Company
- Global Atlantic Financial Group
- ICW Insurance Group

CONGRATULATIONS TO THE NEWEST IRES DESIGNEES

Theo Goodin AIE
Teri Harkenrider AIE
Shelli Isiminger AIE
Christine Menard-O’Neil CIE
Palmer Nelson AIE, CIE

Shelly D. Scott AIE
Clay Troxell AIE
Marcia Violette AIE
Dana Whaley AIE
Stephanie Duchene is a partner in Mayer Brown’s Los Angeles office and a member of the Insurance group. She focuses her practice on representing insurance companies, producers and other insurance licensees and insurance-related service providers in complex and sensitive regulatory matters, including negotiating and resolving significant single and multi-state examinations and investigations, counseling clients on compliance with licensing, claims handling, marketing and advertising rules, and advising clients on the development of new insurance products from initial concept through regulatory approval and into the market. She advises clients on all lines of insurance, including accident, life and health, property and casualty, as well as surplus and excess lines. Additionally, she regularly counsels insurtech companies, traditional carriers and non-insurance entities on the intersection of insurance law and innovation in the industry.