



**Rules of
Department of Commerce and
Insurance**

**Division 100—Insurer Conduct
Chapter 7—Market Conduct Analysis**

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE
Division 100—Insurer Conduct
Chapter 7—Market Conduct Analysis**

20 CSR 100-7.002 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to insurers and other companies transacting business in the state and examiners, analysts, and other staff within the division engaged in market conduct actions, and are to be read together with Chapter 536, RSMo, sections 374.202 to 374.207, 374.185, and 374.190, RSMo.

(2) Definitions. As used in this chapter, the following terms mean:

(A) “Company,” any person as defined by section 374.202.2(1), RSMo;

(B) “Complaint,” has the same meaning as in section 375.936(3), RSMo;

(C) “Comprehensive market conduct examination,” a full-scope examination that generally involves a review of the company’s operations/management, complaint handling, marketing and sales, advertising materials, licensing, policyholder service, underwriting and rating, nonforfeitures, policy forms and filings, claim handling, and other state-specific requirements;

(D) “Department,” the Department of Commerce and Insurance;

(E) “Desk examination,” an examination that is conducted by an examiner at a location other than the company’s premises. A desk examination is usually performed at the department’s offices with the insurer providing requested documents by hard copy, microfiche, discs, or other electronic media, for review;

(F) “Director,” the director of the Department of Commerce and Insurance;

(G) “Division,” the Division of Insurance Market Regulation;

(H) “Examination warrant,” a document issued by the director or the director’s designee appointing one (1) or more examiners to perform a market conduct examination and instructing them as to the scope of the examination;

(I) “Examiner,” any individual having been authorized by the director to conduct a market conduct examination under sections 374.202 to 374.207, RSMo;

(J) “Insurer,” any person as defined by section 374.202.2(5), RSMo;

(K) “Market analysis,” a process whereby market conduct surveillance personnel collect and analyze information from filed schedules, surveys, reports, and other sources in order to develop a baseline understanding of the marketplace and to identify patterns or practices of insurers or companies licensed to do business in this state that deviate significantly from the norm or that may pose a potential risk to insurance consumers;

(L) “Market conduct action,” any of the full range of activities that the director may initiate to assess and address the market and practices of individual insurers or companies, beginning with market analysis and extending to examinations. The director’s activities to resolve an individual consumer complaint or other reports of a specific instance of misconduct are not market conduct actions for the purposes of this chapter;

(M) “Market conduct examination,” the examination of the insurance operations of an insurer or company licensed to do business in this state in order to evaluate compliance with the applicable laws and regulations of this state. A market conduct examination may be either a comprehensive examination or a targeted examination. A market conduct examination conducted under sections 374.202 to 374.207, RSMo, is separate and distinct from a financial examination of an insurer, but may be conducted at the same time;

(N) “Market conduct surveillance personnel,” those individuals employed or contracted by the director to collect, analyze, review, examine, or act on information on the insurance marketplace, which identifies pattern or practices of insurers and other companies;

(O) “National Association of Insurance Commissioners” or “NAIC,” the organization of insurance regulators from the fifty (50) states, the District of Columbia, and the four (4) United States territories;

(P) “NAIC market conduct uniform examination procedures,” the set of guidelines developed and adopted by the NAIC designed to be used by market conduct surveillance personnel in conducting an examination;

(Q) “NAIC Market Regulation Handbook,” a handbook, developed and adopted by the NAIC, or successor product, which—

1. Outlines elements and objectives of market analysis and the process by which states can establish and implement market analysis programs; and

2. Establishes guidelines for market conduct surveillance personnel examination practices;

(R) “NAIC standard data request,” the set of field names and descriptions developed and adopted by the NAIC for use by market conduct surveillance personnel in an exami-

nation;

(S) “On-site examination,” an examination conducted at the company’s home office or the location where the records under review are stored;

(T) “Qualified contract examiner,” a person under contract to the department, who is qualified by education, experience, and, where applicable, professional designations, to perform market conduct actions; and

(U) “Targeted examination,” a focused exam, based on the results of market analysis indicating the need to review either a specific line of business or specific business practices, including, but not limited to, underwriting and rating, marketing and sales, complaint handling, operations or management, advertising materials, licensing, policyholder services, nonforfeitures, claims handling, policy forms and filings, or any other area of review in the NAIC Market Regulation Handbook. A targeted examination may be conducted by desk examination or by an on-site examination.

AUTHORITY: sections 374.045, 374.185, 374.190, and 374.202–374.207, RSMo 2016. Original rule filed April 1, 2008, effective Nov. 30, 2008. Amended: Filed Dec. 13, 2018, effective July 30, 2019. Non-substantive change filed Sept. 11, 2019, published Oct. 31, 2019.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008; 374.185, RSMo 2007, amended 2016; 374.190, RSMo 1939, amended 1949, 1967, 1992; and 374.202–374.207, see Revised Statutes of Missouri.*

20 CSR 100-7.005 Uniform Analysis and Continuum of Actions

PURPOSE: This rule implements the purposes of section 374.185, RSMo, and establishes uniform standards for the division utilizing market analysis to evaluate the market conduct of insurers and to develop cause for issuance of an examination warrant pursuant to sections 374.202 to 374.207, RSMo.

(1) The division will apply the following standards in utilizing market analysis:

(A) The division will gather information from data currently available to the division;

(B) Such information will be analyzed in order to develop a baseline understanding of the marketplace and to identify for further review insurers or practices that deviate significantly from the norm or that may pose a potential risk to the insurance consumer; and



(C) The NAIC Market Regulation Handbook, and other handbooks adopted by the NAIC, will be used by the division as a guide in performing this analysis.

1993, 1995, 2008; 374.185, RSMo 2007, amended 2016; 374.190, RSMo 1939, amended 1949, 1967, 1992; and 374.202–374.207, see *Revised Statutes of Missouri*.

(2) If the analysis supports further investigation or review by the division into a particular insurer or practice, the following continuum of market conduct actions may be considered prior to conducting an on-site examination. These actions may include, but are not limited to the following:

20 CSR 100-7.010 Standards of Analysis
(Rescinded July 30, 2019)

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Nov. 1, 2007, effective July 30, 2008. Rescinded: Filed Dec. 13, 2018, effective July 30, 2019.

- (A) Correspondence with insurer;
- (B) Insurer interviews;
- (C) Information gathering;
- (D) Policy and procedure reviews;
- (E) Interrogatories;
- (F) Review of insurer self-evaluation, if not subject to a privilege of confidentiality, and compliance programs, including membership in a best-practice organization; and
- (G) Desk examinations.

(3) The director will select a market conduct action that is cost effective for the department and the insurer or company, while still protecting the insurance consumer.

(4) Any such materials or documents reviewed by the division pursuant to section (2) of this rule are confidential in accordance with the provisions of sections 374.071 and 374.205.4, RSMo.

(5) The division will take those steps reasonably necessary to eliminate requests for information that duplicate information provided as part of an insurer's annual financial statement, the annual NAIC market conduct statement, or other schedules, surveys, or reports regularly submitted to the director, unless the information is state specific.

(6) Market conduct actions taken as a result of a market analysis will focus on the general business practices and compliance activities of insurers rather than identifying infrequent or unintentional random errors that do not cause significant consumer harm.

(7) The insurer may be given an opportunity to resolve matters that arise as a result of a market analysis to the satisfaction of the director before any additional market conduct actions are taken against the insurer.

AUTHORITY: sections 374.045, 374.185, 374.190, and 374.202–374.207, RSMo 2016. Original rule filed April 1, 2008, effective Nov. 30, 2008. Amended: Filed Dec. 13, 2018, effective July 30, 2019.*

**Original authority: 374.045, RSMo 1967, amended*