

# PROCEDURES MANUAL



## California Department of Insurance Market Conduct Division

Original 01/20/09  
Last Revision 05/19/09

CDI00256990

## TABLE OF CONTENTS

SECTION 1 – MARKET CONDUCT DIVISION OVERVIEW.....	1
100 cdi values/vision/mission .....	1
200 Division Information.....	2
201 Market Conduct Mission Statement.....	2
202 Market Conduct Division Responsibility.....	2
203 Overview of Market Conduct Division.....	2
204 Market Conduct Division Organization.....	3
205 Overview of Field Claims Operations.....	4
206 Overview of Field Rating and Underwriting Operations .....	4
207 Overview of Market Analysis .....	5
SECTION 2 – FIELD CLAIMS BUREAU AND FIELD RATING & UNDERWRITING BUREAU EXAMINATION PROCEDURES.....	5
300 Confidentiality and Privacy .....	5
400 Examination Introduction.....	6
401 Scope .....	6
402 Examination Locations.....	6
403 Types of Examinations .....	6
404 Jurisdiction.....	7
405 Insurance Company Selection.....	7
406 Examination Notice.....	7
407 Selection of Examiner in Charge (EIC) and Team Members.....	7
500 Examination Preparation .....	8
501 Prior to company contact.....	8
502 Initial company contact .....	8
503 Prior to commencement of the examination .....	8
504 Pre-Examination Meeting .....	8
505 Notification of the Examination .....	9
506 Travel Arrangements .....	10
600 Examination Process.....	10
601 Examination Team Protocol.....	10
602 On-site Coordination.....	11
603 Examination findings.....	11
604 Communicating with Company Management .....	11
700 Post Examination Process .....	11
701 Exit Interview .....	11
702 Insurer actions that involve other CDI Units.....	12
702 Examination Findings and Company Response .....	12
703 Informal Conference on the Examination Findings or the Draft Reports.....	12
704 Drafting the Examination Report.....	12
705 Content of the Report .....	12
706 Unresolved Issues .....	14

707	Insurer Surveys.....	15
708	Submission of the Report(s) to the Company .....	15
709	High Profile Reports.....	15
710	Service upon the Agent for Service of Process .....	15
711	Distribution of the Report and Final Regulatory Action .....	16
712	Regulatory Action .....	16
713	Legal Referrals .....	16
SECTION 3 – MARKET ANALYSIS PROCEDURES .....		17
800	Introduction .....	17
801	Prioritization Review .....	17
802	Market Analysis Reviews (MARS)/Level 1 Analysis .....	17
803	Level 2 Analysis.....	17
804	Continuum of Regulatory Responses .....	18
805	NAIC Bulletin Boards .....	18
806	Examination Report Noncompliance Scoring .....	18
807	Market Initiative Tracking System (MITS) .....	19
808	Interdepartmental Communication.....	19
809	Enterprise Information Portal (EIP) Review .....	19
810	Market Conduct Annual Statement (MCAS) .....	19
811	Statutory Examinations.....	20
812	Semi-Annual Analysis.....	20
813	Privacy Examinations .....	20
814	Market Analysis Database .....	20

## SECTION 1 – MARKET CONDUCT DIVISION OVERVIEW

### 100 CDI VALUES/VISION/MISSION



California  
Department of Insurance

#### **Values**

*Honest, open and fair;  
Knowledgeable, accurate, and consistent;  
Accessible, responsive, and accountable;  
Efficient, effective, and to provide innovative leadership.*

#### **Vision**

*To be the best insurance department in the nation!*

#### **Mission**

*Protect consumers;  
Foster a vibrant, stable marketplace;  
Maintain an open, equitable regulatory process; and  
Fairly and impartially enforce the law.*

## **200 DIVISION INFORMATION**

### **201 Market Conduct Mission Statement**

The mission of the Market Conduct Division is to protect California consumers through examination of insurer underwriting, rating and claims practices and enforcement of applicable law.

### **202 Market Conduct Division Responsibility**

The Market Conduct Division (MCD) is responsible for examining and reporting upon the sales, rating, underwriting, and claims payment practices of insurance companies. MCD is one of two divisions in the Consumer Services & Market Conduct Branch.

### **203 Overview of Market Conduct Division**

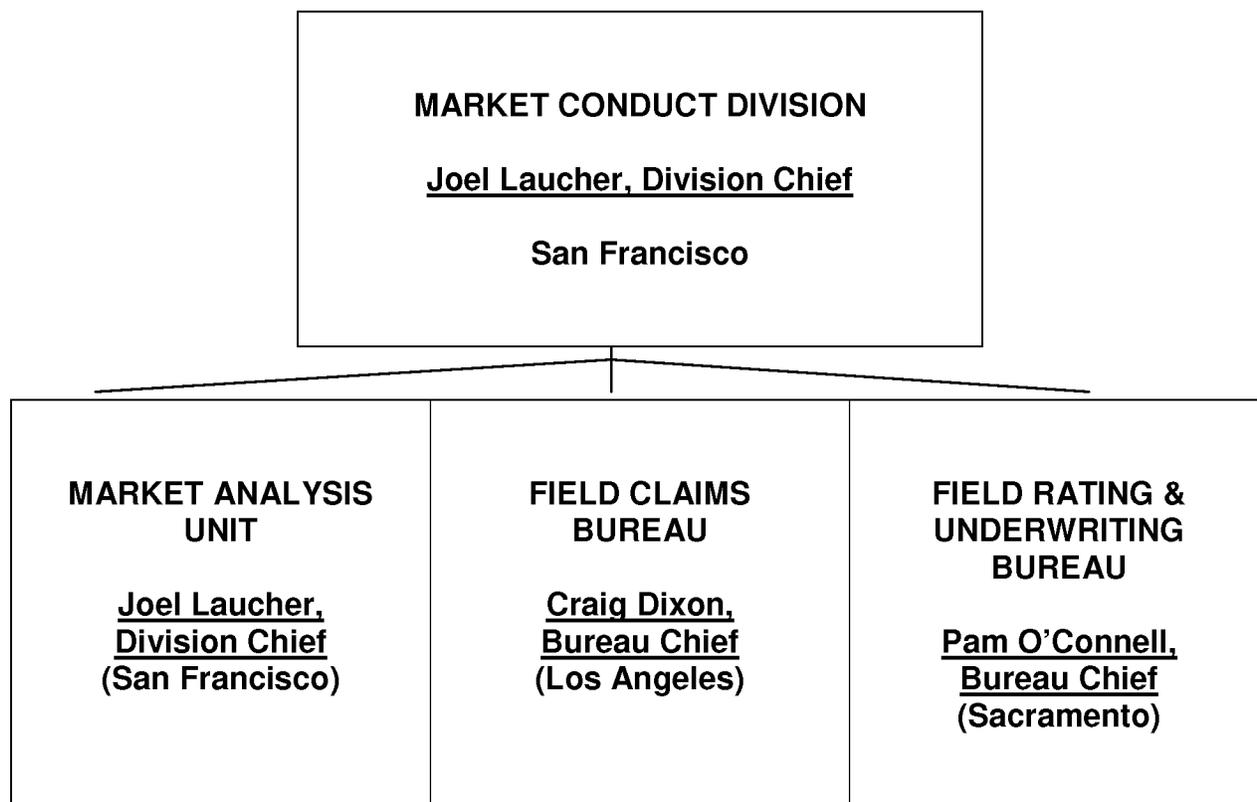
The Market Conduct Division was created in 2001 when the Field Claims Bureau (FCB) and the Field Rating and Underwriting Bureau (FRUB) separated from the Consumer Services Division. MCD is responsible for market conduct examinations of insurance company practices.

In 2005 the Market Analysis Unit was created to analyze trends, patterns and statistical data regarding regulated entities in order to identify areas of concern and initiate appropriate regulatory action.

FCB and FRUB conduct examinations of California licensed insurers' practices to ensure compliance with the California Insurance Code, California Code and Regulations, policy provisions, and related applicable laws. FCB focuses on the claims handling practices of insurers and FRUB focuses on the rating and underwriting practices of insurers.

MCD staff work with insurers to resolve areas of alleged noncompliance informally during the course of the examination process and formally through legal enforcement actions.

**204 Market Conduct Division Organization**



## **205 Overview of Field Claims Operations**

The Field Claims Bureau conducts examinations of the claims practices of insurers doing business in California.

The purpose of these examinations is to ensure that the industry adheres to Fair Claims Practices and to reduce the frequency and severity of claims practices that are unfair to claimants.

The examinations are conducted pursuant to Part 2, Chapter 1, Article 4, Sections 730, 733, 736; article 4.7, Section 742.32; Article 6.5, Sections 790.01, 790.04; Part 2, Chapter 10, Article 7, Sections 11138 and 11140; Part 7, Chapter 2, Section 12752 of the California Insurance Code and Chapter 5, Subchapter 7.5 of Title 10, California Code of Regulations.

Field Claims examinations focus on:

- Underlying causes of Consumer Complaints
- Appropriate claims investigation activity
- Accuracy of the amount of benefit/settlement
- Correct application of policy language
- Delay in settlement
- Denial of claim
- Post claim underwriting of policies

## **206 Overview of Field Rating and Underwriting Operations**

The Field Rating & Underwriting Bureau conducts examinations of the rating and underwriting practices of insurers doing business in California.

These examinations are to ensure that the rules, rates, and forms adopted by the companies meet the State's regulatory requirements, particularly CIC §1861.05(a) which states: "No rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory..."

Authorization for these examinations is provided in the California Insurance Code (CIC), Sections 730 and 1857.1. Insurers and ratemaking organizations are required to maintain suitable records and to allow access to those records by the Insurance Commissioner under CIC Sections 734, 1857, 1857.1, and 1857.2 (Section 730 may also be referenced).

Field Rating and Underwriting examinations focus on:

- Fair and equitable treatment of consumers
- Consistency
- Rate filing compliance
- Notices and disclosures

- Documentation
- Underlying causes of Consumer complaints

## **207 Overview of Market Analysis**

Market Analysis is designed to identify insurance companies or issues that may be of concern to the Market Conduct Division either currently or in the near future. This is accomplished through monitoring and analyzing consumer complaint data, financial data, regulatory actions and other information available through the Department's own databases, National Association of Insurance Commissioner (NAIC) databases, and other sources of information.

# **SECTION 2 – FIELD CLAIMS BUREAU AND FIELD RATING & UNDERWRITING BUREAU EXAMINATION PROCEDURES**

## **300 CONFIDENTIALITY AND PRIVACY**

MCD staff have access to the personal and confidential information of consumers who are insured by the policies and/or who are the claimants in the claims files that it reviews as part of its examinations.

Original documents from the insurer's claims or underwriting files must never leave the insurer's premises. Documentation may be provided to the examiners as hard copy, may be accessible on the insurer's system, may be emailed, or may be copied onto a compact disk. Data with social security numbers and other personally identifiable information is not to be received or sent by email.

If the examination is being conducted on the insurer's premises, the examiner may make copies of certain documents, or print the documents if the files are electronic, and maintain these copies with the examiner's working papers. This is done when necessary for file review, report writing, or as evidence in the event of any enforcement action.

If the examination is being conducted on the CDI's premises, the insurer sends complete copies of the files and maintains its originals.

The examiners use laptop computers that are encrypted and secured with a password to ensure confidentiality. In addition, the flash drives used by the examiners are encrypted. Data on these drives is to be encrypted and transferred to secure Department computers (H Drive) as soon as practical.

All three MCD offices are within work areas that are secured by card readers. Only authorized individuals have access to the work areas. Until adoption of the reports, all materials taken by the examiners or transmitted by the insurer are maintained at the examiner's work station.

When documents are no longer needed, they are either returned to the insurer, or destroyed. If destroyed, paper copies and CDs are shredded and electronic copies are erased.

Necessary correspondence, working papers and their supporting documents on each examination are sent to archives in Sacramento and destroyed according to applicable retention schedules.

Documents with personally identifiable information that are awaiting confidential destruction (shredding) or that are evidence documents retained on examinations that have an open legal case pending are stored in a specific area of the card reader protected work area.

The personal and confidential information of the FCB and FRUB employees can be accessed only by the Supervisors and Bureau Chiefs. Employee information is kept securely in locked cabinets.

## **400 EXAMINATION INTRODUCTION**

### **401 Scope**

An effective market conduct examination program incorporates a system for scheduling examinations and procedures tailored to the nature of examinee's operations.

The areas examined are:

- Company operation/management
- Marketing and Sales
- Producer licensing
- Policyholder service
- Underwriting
- Claims

### **402 Examination Locations**

Examinations are conducted either on-site in the insurer's offices or in the offices of the CDI as a desk examination.

### **403 Types of Examinations**

Routine Examinations - Examinations conducted every 5 years, according to CIC §730(b).

Target Examinations - Examinations resulting from an excessive number of consumer complaints, special order of the Commissioner, or other areas of concern.

Statutory Examinations – A type of routine exam conducted as a limited desk exam and consisting of written questions regarding specific subjects, procedures, and/or business

practices. Statutory examinations are conducted of those insurers with limited premium volume and minimal complaint activity or other areas of concern and/or insurers whose previous examination demonstrated minimal levels of noncompliance.

#### **404 Jurisdiction**

Examinations are limited to the enforcement of laws and regulations of California and are generally limited to contracts or policies with a situs of California. *[Edited: 01/28/09]*

Additionally, the MCD should inquire as to the insurer's intentions to implement corrective actions in other jurisdictions when relevant.

#### **405 Insurance Company Selection**

Management establishes the criteria each year for insurance company selection.

Examinations are scheduled based upon one or more of the following criteria:

- Results of NAIC-based market trend analysis review
- Length of time since the last examination
- Significant increase or decrease in premium volume or financial status
- Consumer complaints that increase in frequency or indicate an ongoing problem
- Prior examination results indicating that a follow-up review is needed to verify compliance
- Special circumstances, such as an Intra-Department request from financial, legal, or executive staff

These criteria enable management to determine whether a limited desk exam, a targeted exam, or a routine on-site exam will be conducted.

#### **406 Examination Notice**

The Bureau Chief sends notice to the company of the Department's intent to perform an examination. The notice is sent out at least 60 days before commencement of the examination in most circumstances. The company normally is given 30 days to respond.

#### **407 Selection of Examiner in Charge (EIC) and Team Members**

Management selects the Examiner in Charge (EIC) and team members. Selection is based on expertise, examination size, logistics, time constraints and training. Selection is subject to change by management.

## **500 EXAMINATION PREPARATION**

### **501 Prior to company contact**

- Begin preparation of the MCD Examination Planning form.
- Update Oracle
- Obtain prior reports to determine the areas of concern and the overall level of noncompliance identified in the report.

### **502 Initial company contact**

- Secure the company's most current financial statement if it is not already obtained
- Determine the identity of the company coordinator and liaison.
- Discuss the examination process and determine the window period.
- Advise of the Coordinator's Guide containing the Questionnaire.
- Discuss the possibilities of conducting an on site or a desk exam. Whether a desk examination can be done may depend on how the files are maintained, file volume, staffing and space limitations.
- Communicate the criteria needed to provide the population lists and the file selection process.
- Request the name, address and phone number of the company's Agent for Service, and verify that this information is current in Oracle.

### **503 Prior to commencement of the examination**

- Obtain the Market Analysis report
- Verify the lines of business as indicated on the financial statement
- Complete the MCD Examination Planning form
- Obtain the population lists and run the random numbers
- Discuss the scope of the examination with the Supervisor to determine which lines are to be examined, the number of files to be reviewed, and the areas of focus
- Provide the company with a list of the selected files
- Complete and send the Coordinator's Guide
- Communicate with the company regarding workspace, equipment and supply requirements, and the need for computer training if the files are electronic
- Communicate with the team members about the examination scope, location, security access, travel dates and anything else that may be relevant.
- Update Oracle

### **504 Pre-Examination Meeting**

Unique to FRUB, when relevant, the EIC will set up a meeting with representatives from the Rate Regulation Branch (RRB) to discuss the rate filings and other areas of concern, such as multiple programs/rates for the same coverage, rating tiers, and insurers that have

undergone mergers. The appropriate RRB Bureau Chief must be contacted to set up the meeting.

### 505 Notification of the Examination

Both FCB and FRUB notify the following individuals by email of the upcoming examination:

Claims Services Bureau	Patrick Campbell
Consumer Communications Bureau	Lucy Jabourian
Consumer Services Market Conduct Branch	Tony Cignarale
Consumer Services Division	Leone Tiffany
Corporate Affairs Bureau	Susan Stapp
Field Examination Division	Al Bottalico
Field Examination Division	Herlinda Rico
Financial Analysis Division, EWS	David Langenbacher
Financial Analysis Division	Alice Dumanil
Financial Analysis Division	Rosa Ruiz
General Counsel	Adam Cole
Investigations	Michael Godard
Legal	Patricia Staggs
Legal, Auto Compliance Bureau	Jose Aguilar
Legal Division, Legal Compliance Bureau	Jerry Whitfield
Legal Enforcement Bureau, Legal Branch	Robert Hagedorn
Legal, Policy Approval Bureau (Life and Health exams only)	Mansour Salahu-Din
Market Analysis	Don McKinley
Market Conduct Division	Joel Laucher
Rating and Underwriting Bureau	Jim Callahan

Rate Regulation	Woody Girion
-----------------	--------------

FCB also notifies:

Field Rating and Underwriting Bureau	Karen Sadural
Department of Industrial Relations (Division of Workers' Compensation)	Carrie Nevans

FRUB also notifies:

Field Claims Bureau	Craig Dixon
Workers' Comp Insurance Rating Bureau	Timothy Benjamin

## **506 Travel Arrangements**

Each examiner makes their own arrangements in accordance with Department travel guidelines.

Travel is scheduled to optimize the amount of time available to conduct the on-site work while minimizing the amount of costs to the company, e.g. avoiding whenever possible having holidays, 9/80 scheduled days off, or short weeks on-site. For the good of the examination, exceptions may be made with prior approval of the Supervisor.

## **600 EXAMINATION PROCESS**

### **601 Examination Team Protocol**

At all times, the examiners should be professional in speech, attire, work ethics, and courteousness toward others.

The EIC is the primary contact with the company liaison.

All issues need to be referred to the EIC to coordinate consistency.

The EIC must be kept apprised of the issues being discovered and referred to the company.

The EIC is the on-site consistency monitor and should be involved in the presentation of our work product to the company

The EIC should be involved in any discussion with the company regarding the issues.

## **602 On-site Coordination**

Upon arrival, the EIC should:

Introduce themselves and the team members to the company representatives.

Telephone or email the Supervisor to notify of the team's arrival.

Discuss and coordinate with the liaison a time and location for the Introductory Meeting.

Verify all requested files were received and implement a system to track the files provided by the company.

Establish the order in which the categories or lines are to be reviewed and establish a method for keeping track of which files have been reviewed by each examiner to assure that the correct sample has been reviewed.

## **603 Examination findings**

When the team perceives an error or violation, the examiner's question(s) are submitted to the company in writing by utilizing the Audit Inquiry and Resolution form. The company is allowed a specific time in which to respond.

The Audit Inquiry and Resolution form with the company's signed written response becomes a part of the examination documentation, as well as copied documents from the file that support the examination findings.

## **604 Communicating with Company Management**

The EIC should encourage open communication between the company personnel and the examination team. The EIC should explain to the company personnel that the timely completion of the examination depends on communication and cooperation.

## **700 POST EXAMINATION PROCESS**

### **701 Exit Interview**

As the file review is nearing completion and the departure day more definitive, the EIC should set a day and time for the exit interview. The exit interview should be conducted with the examination team and all designated company representatives.

## **702 Insurer actions that involve other CDI Units**

When the EIC determines that the remedial measures to a noncompliance issue will involve another bureau (such as the Policy Approval Bureau or a Rate Filing Bureau) that bureau will be notified with as much detail as possible. The EIC will request that the other unit advise the EIC when the company has followed through with its remedial measure.

## **702 Examination Findings and Company Response**

The EIC may present the company with the examination findings, in written form, with an inquiry into whether or not the company agrees with the findings and if so, what the remedial measures will be.

The FCB findings may be presented by a copy of the initial draft of the reports. The FRUB findings are presented by utilizing the Summary of Non-Compliance letter. However, if the examination was of a high profile insurer these findings are first submitted to the deputy commissioner of CSMCB for review and approval (see Section 709).

## **703 Informal Conference on the Examination Findings or the Draft Reports**

If all issues relating to the report are not mutually agreed upon, the company may request an informal conference with the CDI.

## **704 Drafting the Examination Report**

In most instances, the EIC is responsible for writing the examination report(s). Upon completion, the reports are to be submitted to the Supervisor for approval.

Examination reports are written as reports by exception. The reports should reflect, in their wording, the same objectivity as was used in the fact-finding and information gathering processes of the examination. When the scope of the examination is to target certain areas, that fact should be indicated. The reports must be factual recordings of the findings. The use of words such as “some,” “many,” “several” and “few” must be minimized. Statements such as “The Company argues” or “disputes” are to be avoided. However, it is acceptable to quote such a response within the Summary of Company Response.

A draft of the report should be submitted to the supervisor within 30 days of receipt of the final response from the insurer regarding any open matter.

## **705 Content of the Report**

The examination reports contain the following:

- Title page

Type of examination

Name of Company(ies)  
NAIC# and CDI#  
An “as of” date, to indicate the end of the examination  
California State Seal  
Identity of Division and Bureau

- Notice Regarding Confidentiality (if applicable)
- Table of Contents
- Salutation

Addressed to the commissioner stating that pursuant to his instruction, an examination of the Company(ies) has been performed.

- Foreword

Contains statements concerning the examination review period, that the report is written in a “report by exception” format, and that the alleged violations have not undergone a formal administrative or judicial process.

- Scope of Examination:

A review of the company’s adopted plans, procedures and manuals in support of company practices, such as Underwriting Guidelines, Claims Manuals, forms, rating plans, statistics, etc.

- A review of the application of such plans, procedures, and manuals.

A review of the Market Analysis results, consumer complaints and inquires, and previous market conduct examination reports.

- Executive Summary

The executive summary should highlight the principal areas of concern and present an overview of the findings of the examination, including a summary of the policy and claim review results. Particular attention may be given to those activities that involve significant consumer harm or relate specifically to the reason for calling the examination.

Results of the review of Market Analysis, consumer complaints and inquiries, previous examinations, and prior enforcement actions.

- Examination Details

The FCB report contains the following:

Table of the Details of the Current Examination  
Table of the Sample Files review  
Table of Total Citations  
Table of Citations by Line of Business

The FRUB report contains the following:

Method of Doing Business  
Authorized Classes of Business  
Premium and Loss Experience Study  
Table of California Premium and Loss Experiences by Line for the Year (previous year).  
Lines of Business Reviewed  
Details of the Current Examination  
Table of In-Force Policies  
Table of Terminated and Declined Transactions  
General Practices Review Results

- **Summary of Examination Results**

The Examination Results include the examination findings and the company's response to the issues. If the company agrees to the findings, its remedial measures are stated, as well as the date the measures have been, or will be, implemented.

This section also indicates whether there were recoveries, unresolved issues, or internal surveys.

## **706 Unresolved Issues**

Occasionally, the company and Department are unable to reach an agreement as to the applicability of a citation or whether the company's general practices are in compliance. In addition, the Department may find that the remedial measures proposed by the company inadequately resolve the issues.

If there is an impasse on an issue, the EIC must notify the Supervisor for direction.

The EIC is encouraged to discuss issues with the company, but the Supervisor may request that discussion cease so the examination process can continue.

The EIC advises the company that its position on the issue is summarized in the examination report.

Further, the EIC may advise the liaison that unresolved issues are to be reviewed by management and may lead to administrative action. This is indicated in the report(s) as "Therefore, this is an unresolved issue that may result in administrative action."

## **707 Insurer Surveys**

When the findings of an examination indicate that the company offers to perform a review of its files by means of an internal survey or review, the report is to indicate that the survey is in progress and to state the expected completion date. If the survey has been completed prior to the drafting of the report, the report is to include the survey results.

The report must include details regarding the line of business or the category of review triggering the survey or review. Additionally, if the resolution is a company wide change that would benefit policyholders in other states, the report should include this information.

In an instance where a non-willful, systematic underpayment of claims or overcharge of premium is discovered and the financial impact on each consumer is less than \$5.00, the examiner is not to encourage the company to conduct an internal survey.

However, if the cumulative gain for the company as a result of the practice is \$5,000.00 or more, then the company may either make the reimbursements or pay a penalty equal to the total estimated amount plus 25%.

The EIC is to discuss any deviation from this standard with the Supervisor who is to be kept apprised of any negotiations.

In situations in which there are other alleged violations that make the entire examination actionable, the underpayments or overcharges are to be considered in context with the other violations before determining an appropriate resolution or settlement.

The EIC will monitor the progress of the survey and complete the FCB Survey Verification Checklist form or the FRUB Self Audit form.

## **708 Submission of the Report(s) to the Company**

Upon completion, the preliminary draft reports are submitted by the Bureau Chief to the company for its review, unless the examination is high profile (see Section 709). The company is required to respond within 30 days.

## **709 High Profile Reports**

Before the initial draft of a high profile examination is mailed to the insurer, MCD is to submit the draft to the deputy commissioner of CSMCB for review and approval.

High profile reports involve insurers deemed high profile by management for reasons such as wild fires, high market shares, or the special interest of the Commissioner.

## **710 Service upon the Agent for Service of Process**

Upon receipt of the company's response, the report to be published on the website is mailed to the Agent for Service of Process in accordance with CIC §12938(b)(2).

### **711 Distribution of the Report and Final Regulatory Action**

Examination results are entered into the NAIC Examination Tracking System.

Upon adoption of the final report, an electronic copy will be submitted to relevant bureau chiefs in other units. FCB submits to the Claims Services Bureau (CSB) and the Consumer Communications Bureau (CCB), and FRUB submits to the Rate Regulation Branch (RRB), Rating and Underwriting Services Bureau (RUSB) and Consumer Communications Bureau (CCB).

### **712 Regulatory Action**

Final regulatory disposition is determined by the CDI. Disposition may include one or more of the following items:

- No further regulatory action
- Re-examination referencing issues noted in previous examination reports
- Formal enforcement action, typically consisting of an Order to Show Cause for FCB referrals or a Notice of Noncompliance for FRUB referrals. The company may agree to a consent order, agreement, or stipulation, including the payment of a monetary penalty. Or the matter may proceed to a hearing of the issues.

### **713 Legal Referrals**

[REDACTED]

## **SECTION 3 – MARKET ANALYSIS PROCEDURES**

### **800 INTRODUCTION**

Market Analysis is a structured and formalized system of collecting, organizing, and analyzing data and other information to enable regulators to identify general market disruptions and specific market conduct problems as soon as possible, while maintaining an efficient and effective regulatory framework.

When an examination is initiated, market analysis serves as a tool for directing the market conduct resources to those issues which cannot be addressed by any other means. It also provides a foundation for the collection of common data that allows states to work in a collaborative manner using an overview of the current NAIC-coordinated approach.

### **801 Prioritization Review**

The prioritization review includes the use of the Marketing Analysis Prioritization Tool (MAPT). The prioritization automated scoring system prepares a score for all companies per state and line of business. The prioritization tool includes an easy method of modifying the weighting and considerations for possible modifications to sub-components.

The automated MAPT is only available for use when reviewing 7 specific lines of business: Group Accident and Health, Group Life and Annuity, Homeowners, Individual Accident and Health, Individual Life and Annuity, Medicare Supplement, and Private Passenger. For all other lines of business (e.g. commercial lines, credit, and Long Term Care) modified prioritization tools are necessary.

For the commercial lines (e.g. CMP Non liability, CMP Liability, Inland Marine, Workers' Compensation, Other Liability, Commercial Auto Liability, Commercial Auto PD, and Surety), prioritizing involves utilizing the annual Market Share report.

### **802 Market Analysis Reviews (MARS)/Level 1 Analysis**

A Level 1 Analysis is a more detailed review, than prioritization, of certain information contained in NAIC databases, which is provided to the analyst through the Market Analysis Review System (MARS). The Level 1 Analysis was designed to show that a minimum level of review has been performed on the selected insurance company and to document an analyst's input, conclusion and recommended next step. The analysis should assist in identifying companies requiring even further review and does not necessarily indicate that the company will be subject to a formal regulatory response, such as an examination.

### **803 Level 2 Analysis**

At the conclusion of a Level 1 Analysis, the analyst may determine that more in-depth analysis is necessary. The next step would be to conduct a Level 2 Analysis. The Level 2

Analysis review process assists the states in confirming that there is a market regulatory issue or in determining to a much greater degree the cause and extent of the problem. The Level 2 review process requires states to closely review specific facets of the company and its market practices.

There are six core areas that should be reviewed for each Level 2 analysis done on a company. The six core areas of review are: consumer complaints, continuum activity, examinations, interdepartmental communications, market analysis, and regulatory actions. Each of these core areas are explained in more detail in the Market Analysis Training Manual.

If the Level 2 Analysis indicates that there is a specific regulatory problem(s), the state should then proceed with the Continuum of Regulatory Responses.

#### **804 Continuum of Regulatory Responses**

The Continuum of Regulatory Responses is a the step in the market analysis process that identifies an array of actions the regulator may choose to take when there is a particular area of concern or a noncompliance issue. The purpose of referring to the Continuum is to help the regulator determine the most effective and efficient course of action when a potential problem has been identified with a company. Another purpose of the Continuum is to avoid the reactive initiation of formal examinations to address all circumstances. This process is explained in more detail in the Market Analysis Training Manual.

#### **805 NAIC Bulletin Boards**

The Market Analysis Unit reviews and responds to questions or requests posed on either the Market Analysis or the Market Regulation Bulletin Board. Responding to these inquiries generally requires that the analyst communicate with other units within the Department for more specific or technical information.

#### **806 Examination Report Noncompliance Scoring**

The Market Analysis Unit reviews the most recent examination report and develops an examination report noncompliance score by using the Examination Grading Worksheet. The examination score is based on the Severity and Frequency of Criticisms.

The Examination Grading Worksheet lists three options from which to select:

- None or low
- Moderate
- Severe

Once a scoring value has been applied, the type of exam (on-site vs. desk) and the number of years until the next exam are determined. No issues or low issues generally result in a statutory desk exam in five years; for moderate results the next exam will be on-site in 5 years; and for severe results the next exam will be on-site in one to two years.

The grade for the exam, the severity of the criticisms, along with the number of years until next examination is to be entered into the IDB for the respective EID.

### **807 Market Initiative Tracking System (MITS)**

The Market Initiative Tracking System provides regulators with a web-based tool for tracking and sharing information concerning the actions they take in investigating the business practices of a particular company, group of companies or general issue. MITS was designed to capture any initiative being conducted by a state that may impact other jurisdictions.

MITS allows state regulators for tracking initiatives, research and investigations being performed by other state departments in an effort to reduce duplicative efforts. The system is designed to allow regulators to search using key words, business specific categories, date fields, or by directly searching the name of a company.

### **808 Interdepartmental Communication**

As the Uniform Core Competencies describe, it is essential for information to be shared and discussed between the Market Analysis Chief (MAC) and other Department of Insurance staff to ensure that the Department is speaking with one voice. This should be done on a systematic basis, including at a minimum a quarterly questionnaire requesting other work areas within the Department of Insurance to share unusual activity that may be of interest to the Market Analysis Chief such as patterns of adverse financial data, consumer complaints, policy termination activity, insurance producer misconduct, or use of noncompliant forms or rates.

### **809 Enterprise Information Portal (EIP) Review**

The EIP Review consists of logging into the EIP system daily and checking for Alerts or Collaboration referrals. Any significant or serious Alert activity should be reviewed further in by way of a Semi-annual Analysis, which is described in a different section below.

### **810 Market Conduct Annual Statement (MCAS)**

The MCAS is a uniform system of collecting market related information to serve the needs of all participating states. The MCAS provides regulators with information not otherwise available for their market analysis initiatives. It promotes uniform analysis by applying consistent measurements and comparisons between companies, which allows all companies to be compared on an equal basis. The following steps are performed annually:

- Prepare and send standardized data call letters (in the fall) to California participating insurers requesting MCAS data be submitted by first quarter of the following year. The letter is specific to California statutory authority and contact information. Selected insurers are those writing a certain level of premiums for PPA, Homeowners, Individual Life & Annuity and Group Life lines of business. The NAIC mails the standardized data call letters.

- Receive MCAS information from various insurers and import into database. Request additional information from insurers as needed, i.e. if data did not transmit correctly.
- Analyze all MCAS information once all (or near all) of the insurers have submitted information. Run preprogrammed rankings and ratios for insurers.
- Generate report cards and letters to be submitted to insurers with company specific information. Field various phone calls.

## **811 Statutory Examinations**

As part of the Department's mandate to examine all admitted carriers in this state within a five-year cycle, the Market Analysis Unit is responsible for maintaining the examination schedule for the Market Conduct Division to ensure compliance with CIC Section 730. The examination schedule is maintained on an Excel spreadsheet. The schedule is to be continuously updated with examination information and examination results and once a year the schedule is updated with revised written premium amounts.

The actual Statutory Examination process which includes notification of the companies and the reviewing of responses from the company is to be completed by either FCB or FRUB. However, the Market Analysis Unit should have the skills and knowledge to complete the statutory exams if necessary.

## **812 Semi-Annual Analysis**

The Semi-Annual Analysis is the comprehensive review of a number of pre-determined criteria for selected companies. The individual tasks and procedures associated with completing the Semi-Annual Analysis are located in the Market Analysis Training Manual.

## **813 Privacy Examinations**

The Market Analysis Unit is responsible for completing examinations of the privacy practices and policies of each California domestic insurer over a five year cycle. More specific information regarding the privacy examination process is included in the Market Analysis Training Manual.

Each year the Market Analysis Unit selects 20% of eligible insurers (i.e. domestic carriers) for a privacy examination. Once the carriers have been identified, the Market Analysis Unit notifies each insurer of their upcoming privacy examination. The privacy examination itself consists of the Market Analysis Unit sending each designated insurer a request for information. The insurer is required to submit its response within 60 days. The insurer's responses are reviewed for any findings or errors, which may lead to further correspondence with the insurers. Once all of the findings or errors have been resolved the Market Analysis Unit incorporates any findings and resolutions into a Privacy Examination Report.

## **814 Market Analysis Database**

The Market Analysis Unit has a database in Oracle, which serves as a centrally located information hub for all market analysis data, such as Level 1, Level 2, and Continuum Review results.