

**RESPONSES FROM
INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION
(IIPRC)**

Question List

Product Approval

- Generally, what product approval improvements have occurred over the last 5 to 10 years to make approval more reciprocal among states, and what reasons or movements made such progress possible?

In 2000, the National Association of Insurance Commissioners (NAIC) presented the *Statement of Intent: The Future of Insurance Regulation* as a blueprint for insurance regulatory modernization. From this working framework, state insurance regulators and legislators collaborated on the creation of the Interstate Insurance Product Regulation Compact (“Compact”). States joining the Compact agree to national standards for products. Insurers are able to submit products to one central location and receive approval to use the product in all of the compacting states.

During 2002/2003, the *Compact Statute* was drafted and adopted by the NAIC. Legislation was essential to creating a truly uniform approval process and enacting such into the Members’ state laws. The NAIC worked with the National Council of State Legislators (NCSL), the National Conference of Insurance Legislators (NCOIL), and the National Association of Attorneys General (NAAG) to ensure the Compact would be effective from a regulatory and state government perspective.

In 2004, the first two state legislatures (Colorado and Utah) enacted the *Compact Statute* into law. In June 2006, the Compact met both its stated thresholds of 26 states and/or 40% of premium volume, and initiated the Interstate Insurance Product Regulation Commission (IIPRC) as the public agency charged with managing the daily operations (including streamlined product reviews) of the Compact on behalf of the Member states.

Today, 32 states and Puerto Rico have enacted the *Compact Statute*, which represents over one-half of the premium volume nationwide in the Compact’s authorized asset-based insurance lines – life, annuities, disability income, and long-term care insurance.

The IIPRC launched the speed-to-market filing review process directed under the Compact in June 2007. Within a short time, the IIPRC has promulgated national standards in the individual life and annuity lines which have been accepted by all Member states. Over 100 products have been reviewed and approved under the Compact’s streamlined processes, while important consumer protections have been upheld, and in a number of cases expanded, through the Compact’s uniform standards.

The IIPRC will begin the development of group life and annuity uniform standards next, with disability income and long term standards to be undertaken in 2009. Additional states are expected to join the Compact during 2009, as the IIPRC continues to leverage the proven state-based insurance regulatory system to enhance the modernization platform in order to meet the demands of the global financial marketplace.

- What areas associated with product approval have seen less progress, and what factors or issues have limited progress toward reciprocity and uniformity among states?

The Compact's authorized lines are life, annuities, disability income and long term care insurance. The Compact enacts uniformity of regulatory review standards in these lines, and provides for a central, streamlined, electronic review process to allow for speed-to-market while upholding strong consumer protections.

With the commitment to open and transparent promulgation processes, the Compact provides for extensive public comment and review before a national standard is accepted. The average time for the adoption of Compact national standards from introduction to filing effect is 4-6 months. The IIPRC is working diligently to promulgate more standards in all authorized asset-based product lines so companies may file more products.

- To what extent do you reciprocate with other states in the area of product approval?
How do you decide whether or not to reciprocate with other states?

The Compact provides for uniformity under national standards adopted by the Compact Member states and provides a central review platform. States in the Compact agree to abide by uniform national standards. A state can decide to opt out of a product standard, but to date no state has opted out.

- More specifically, to what extent has the creation of the Interstate Compact helped the insurance industry move toward reciprocity and uniformity?

The Compact is based on the premise that Member states agree to accept the uniform product standards. All Member states can participate in the development of the uniform standards.

Representing more than one-half of premium volume across the country in 33 Member jurisdictions, the IIPRC provides a uniform regulatory platform that allows insurers to get new products to the market quickly, while continuing to uphold strong consumer protections through state-based regulation. The IIPRC has reached a significant milestone by approving over 100 life insurance products to date. Filing with the IIPRC allows insurance companies to make one filing under one set of uniform standards for one approval in under 60 days that is valid in all Member jurisdictions.

- How likely will the compact's progress extend to the property casualty part of the industry?

Asset-based insurance products more readily lend themselves to uniform standards as these are "mobile" products that tend to move with consumers throughout their lifetimes,

and are not particularly sensitive to geographic conditions. In contrast, property/casualty products do have local costs and conditions considerations.

It should be noted that the Compact has demonstrated unprecedented cooperation among the states. No state to date has opted-out of any of the Compact national standards. This demonstrates the strong commitment to uniformity, efficiency and high-level consumer protections. The success of the IIPRC start-up can serve as a model for future regulatory modernization.

- How strong and effective are the compact's product standards?

The standard-setting process in the Compact engages the collective expertise of the Member insurance departments as well as seeks the input of the greater state insurance regulatory community through the NAIC. Comments and concerns from legislative representatives, consumers and industry assist in informing our process to ensure high level standards. As the process is open to public participation, all interested parties are invited to comment as well.

Another important feature of the process is its voluntary nature. If product standards created by the IIPRC are not adequate to meet the consumer protections of Member states, states may opt-out of the uniform standards. The possibility of a state opting out of a uniform standard tends to promote the highest level of consumer protection among the member states. Finally, the Compact requires supermajorities of both the Management Committee and the full Commission membership of the IIPRC to approve uniform product standards.

These features promote a consensus-based approach to decision-making, which promises to produce higher product standards to benefit consumers, in exchange for an effective single point of filing with uniform standards that will provide insurers with the "speed-to-market" they want in order to compete more effectively.

- To what extent do they address suitability for consumers?

There is considerable discussion about the suitability of product features as part of the product standards development process. The suitability of a particular product for a consumer continues to be the jurisdiction of each Member state.

The Compact legislation directs the IIPRC to establish an advisory committee for consumer representatives. It directs a similar advisory committee for insurance industry representatives. The consumer advisory group provides feedback to the IIPRC on uniform standards, rules, and operating procedures. It serves as a formal mechanism for consumer representatives to monitor the operations of the Compact and to make recommendations; moreover, all consumers and the general public may provide comments throughout the standards-setting process.

The Compact requires that uniform product standards be construed to prohibit the use of any inconsistent, misleading or ambiguous provisions in a product. It also requires that the form of the product made available to the public shall not be unfair, inequitable or against public policy as determined by the IIPRC.

Specifically, the uniform standards for Applications include a suitability provision which allows companies the opportunity to solicit information that helps the agent and the insurer determine suitability of the product for a consumer.

In addition, the market conduct, suitability and unfair trade practice protections in place in any Member state continue to apply to products sold in the market based on IIPRC approval. The IIPRC does not override or otherwise prevent the application of these measures to consumers considering or purchasing IIPRC-approved products.

- Some compact processes may be seen as inhibiting reciprocity and uniformity among states (for example, leaving to states whether they will allow exceptions to life insurance incontestability clauses).

- To what extent does the compact promote full reciprocity and uniformity?

The uniform standards drafting process strives to reach consensus among Members on uniform product standards requirements. This has resulted in only a very small number of cases where the IIPRC uniform standards defer to existing state law in an area otherwise delegated to the IIPRC. Such situations have been minimized to the fullest extent possible, and have a very limited effect on the overall uniformity process.

- What, if anything, more could the compact do to promote further reciprocity and uniformity?

The instances where uniform standards defer to existing state product requirements can be further minimized by fuller participation in the uniform standards drafting process by Member and non-Member states, consumer representatives and industry members.

- Do any other compact processes limit reciprocity and uniformity?

The Compact's processes promote uniformity through national standards and central review processes. As new states join the Compact, additional uniformity will be achieved nationwide.

- Unlike some states with public filings, filings to the compact are not public until products are approved.
 - To what extent does such a process reduce transparency?
 - Does it hinder consumer protection?
 - How accountable are the compact and its processes? Could consumers sue the compact if harmed by a compact-approved product? there is a compact provision on this and consumers have the same recourse against the IIPRC as

they do against state approvals (which is very rare that a consumer experiences damages caused by the review and approval process)

The IIPRC maintains high levels of transparency during the standards drafting and adoption process, which provides a full preview of the product requirement issues and solutions encountered during the review process. The standards drafting and adoption process is the critical process for establishing consumer protections. There is a public comment and hearing structure built-in to the standard-setting process which affords all constituencies the opportunity to participate in the process. Product reviews are then carried out by experienced regulatory professionals at the IIPRC to ensure that filers have complied with the requirements embodied in the adopted uniform standards.

Public access to pending filings is an area where uniformity does not exist at the state level, which increases the difficulty inherent in creating a rule that mirrors state practice. NAIC research indicates the states are almost evenly divided on the issue.

During the recent IIPRC Annual Meeting in September 2008, an extensive public comment period was concluded on the potential for changing the IIPRC Public Access Rule to allow for access to product filings while these are still under review. With the commitment to accountability in the forefront of discussions by Compact Members, public access concerns for pending filings were extensively reviewed and analyzed. The issue received robust discussion with feedback from the insurance industry, consumer representatives, legislators, and regulators. It was concluded that the current Rule would be kept in place. Given the open and transparent processes for standards-setting through the Compact, it was concluded that the potential for any consumer harm during a pending review while the product has not yet been approved for use in the market, was not apparent. Filings that are approved are available as public records.

- A good number of states have joined the compact but a fair number have not. Why have some states not joined and what is holding them back?

In its first four years, 33 jurisdictions have joined the Compact. During 2008, 11 jurisdictions had the Compact legislation under active consideration. Large states by premium volume, including New York, California and New Jersey are actively considering membership.

Previous opposition to joining the Compact has centered on a belief that there would be a loss of consumer rights and remedies with Compact-approved products. The *Compact Statute* specifically states that these consumer rights and remedies are preserved, that state attorneys general can continue to pursue actions in the normal course, and that state insurance departments will continue to conduct market conduct and consumer affairs activities.

- For full product approval reciprocity to occur with states where it does not currently exist, what issues or problems would need to be resolved?
 - Are there any other product approval issues that may be hindering greater reciprocity and uniformity?
 - What are the timeframes of such plans and efforts?
 - Are these efforts on schedule to meet these timeframes?

The IIPRC is working diligently to promulgate more national standards which will promote uniformity across the states. The IIPRC expects that in addition to the Individual Life and Annuity Standards already in filing effect, Group Standards will be brought into filing effect during 2009. Comprehensive development on Disability Income and Long-Term Care Standards also will be achieved during 2009.

- To what extent have SERFF and other rate and form review efforts have improved product approval?

For the IIPRC, SERFF is the sole electronic platform used for Compact filings. All Compact filings must be made electronically, and the IIPRC utilizes EFT for fees collection. This contributes significantly to the streamlining of the review processes as well as facilitates accurate and up-to-date information on insurance products approved in the market for the use of regulators in market analysis and consumer affairs responses.

Additional data is available from the SERFF operation at serffmktg@naic.org and through the National Association of Insurance Commissioners (NAIC) indicating that for the overall system (not solely for the Compact states), SERFF is available for use in 52 jurisdictions and is mandated by 12 jurisdictions. Approximately 65-70% of all product filings are accomplished through SERFF.

- For states that are not fully reciprocal: What other plans and efforts underway, not already discussed, does your state have to move toward full reciprocity?

During 2008, the Compact Statute was pending as legislation for consideration before 11 jurisdictions, including New York, California, New Jersey, Illinois, Wisconsin, Louisiana, South Carolina, Missouri, Alabama, Connecticut, and District of Columbia.

To date this year, 3 additional states adopted the *Compact Statute* – Wisconsin, Louisiana, and South Carolina, bringing the membership to 33 jurisdictions. The IIPRC has a comprehensive and active outreach plan to promote additional state memberships in 2009.