



SUMMARY OF OMAHA 2023 COMPACT ROUNDTABLE

Prepared by the Compact Office

EXECUTIVE SUMMARY

On October 25th, Commissioners, regulators, consumer representatives, company and industry representatives, and NAIC and Compact Office staff attended a three-hour roundtable discussion at the Omaha Marriott Downtown in the Capital District of Omaha, Nebraska. This was the fourth Compact Roundtable in the past 18 months. Much of the Roundtable was spent in breakout format where groups discussed key issues and takeaways. The agenda, attendee list and detailed summary follow.

- The first breakout was geared towards improving Uniform Standards development.
 - Most agreed that finding ways to increase the Uniform Standards development process would minimize gaps that would prevent the Compact from reviewing all aspects of a product.
 - The topic of a conditional approval Uniform Standard of items outside the scope of an existing Uniform Standard was met with support and skepticism as to how it would work in practice.
 - The main concerns with conditional approval would be that it could create an unlevel playing field for companies, uncertainty of the approved product's status once the conditional period was over, whether companies would use it given their speed-to-market goals, and whether a sufficient number of states would participate in order to make it worthwhile.
 - Recognition that a Uniform Standard to cover the minor parts of a product not explicitly scoped out in other Uniform Standards could reduce the use of mix and match and would need clear guardrails and transparency.
 - Suggestions for future Uniform Standards including value-added services, wellness benefits, stand-alone accident, group expansion, illustrations, advertising, and paid family leave.
- The second breakout was focused on ways to improve specific Compact processes.
 - Most of the discussion focused on improvements to mix and match with consensus that the process needs to be updated. Companies stressed its importance due to product development outpacing Uniform Standards.
 - Recognition that a Uniform Standard to cover gaps in other Uniform Standards would greatly reduce the use of mix and match.
 - General agreement for having the Compact Office get more involved in helping states identify whether forms filed with the states for mix and match are ones that fall within Uniform Standards.
 - Support was shown for having the Compact Office view state mix and match filings when SERFF is modernized. There were suggestions for expanding the availability of mix and match to all product lines and limiting mix and match to forms in SERFF.
 - Suggestions for strategic action items included: 1) developing a filing fee calculator; 2) reducing data entry on the Statement of Intent Schedule; 3) adding more staff to review operations; 4)

regular five-year review of Uniform Standards; 5) identify additional forms states require with Compact-approved products.

- The third breakout was spent discussing an advisory review service process.
 - Wide support for advisory services to perform services on behalf of states to streamline 50 state filings, which undergo different reviews for the same product.
 - It was suggested to use common requirements and build in optionality to address state variations while achieving speed-to-market in review, approval, and deployment.
 - The advisory process would also reduce same or similar questions asked by state reviewers and leverage product expertise at the Compact.
 - All states could participate, and there was agreement that a high-level of state support would be necessary for success.
 - This process could include products outside those that the Compact supports and/or Uniform Standards, as well as innovative products within the authorized product lines that go beyond the Uniform Standards.
 - This process would be collaborative to focus on new and innovative products beyond the filling-in-the gap of existing Uniform Standards as explored in Breakout Session 1.
 - A suggestion was made to pilot a small number of states and companies to see how it would work in practice before scaling up.

DETAILED SUMMARY

On October 25, 2023, Commissioners, regulators, consumer representatives, company and industry representatives, and NAIC and Compact Office staff attended a three-hour roundtable discussion at the Omaha Marriott Downtown in the Capitol District of Omaha, Nebraska.

Maryland Commissioner Kathleen Birrane, Chair of the Compact Commission, welcomed the attendees. She indicated the Roundtable is an opportunity to share and listen to the many perspectives and ideas on how the Compact can be improved and further leveraged to serve its member states, as well as meet the regulatory needs of the insurance industry today and in the future.

The format of the Roundtable was to continue the discussion of ideas and issues raised in previous Roundtables and explore strategies and considerations around each topic. The first and second breakout sessions were about strategies that can improve the current Compact process. The third breakout was about strategies for the next generation of services for the states and industry, including a platform to help states review forms that companies cannot file with the Compact today.

The following is a summary of the feedback on each area of strategy discussion.

Brainstorming on Ways to Improve Uniform Standards Development

DISCUSSION QUESTIONS:

- Discuss the advantages, issues, and considerations if the Compact developed a Uniform Standard for Conditional Approval as follows:

- Review and grant approval, using discretion within certain guardrails, to products or benefit features not within the scope of existing Uniform Standards.
 - The approval would be conditional or provisional for a period of up to 5 years and can be extended provided the Commission has agreed to develop a new or amend an existing Uniform Standard for the product or benefit feature approved under the Uniform Standard for Conditional Approval.
 - Before the conditional approval, Compacting States could notify the Compact it will not participate in the approval.
 - If a Uniform Standard is not developed within 5 years, the Compact-approved product reverts to a state-filed product and the Compact can no longer approve the product or feature.
 - Examples: waiver/credit of specified premium; accelerated death benefit trigger for reaching a certain age such as 80; limited renewability disability income benefit.
- What are the products and features that are being filed in the states because the Compact does not have adequate Uniform Standards?
 - How would you prioritize development of standards for these products and features?
 - Examples: index-linked variable products; group universal life; wellness benefits for life products, etc.)

SUMMARY OF DISCUSSION:

The most agreement was for finding ways to enhance the Uniform Standards development process to minimize gaps, which prevents the Compact from reviewing all aspects of a product. General support was expressed for increasing the staffing at the Compact dedicated to working on new and amended Uniform Standards development.

The prospect of having a Uniform Standard for conditional approval was discussed. The general concept would be to have a Uniform Standard where the product is within the scope of other Uniform Standards, but a feature or provision is not specifically addressed or described within the Uniform Standard. The change or variation outside the Uniform Standards would be minor; participants agreed this process would not be best suited for innovative product features, either. Most felt it was a good idea conceptually but would need detailed parameters within the Uniform Standard for how it would work.

An example of how the conditional approval would work was a company files an individual universal life filing with an accelerated death benefit that becomes available at age 80 without having to meet another qualifying event, such as terminal illness. The Compact has Uniform Standards for universal life and accelerated death benefits, but the Accelerated Death Benefit Standard does not include the trigger for attained age.

Concern was expressed about the conditional nature of the idea, especially if a Uniform Standard was not developed or amended within the five-year period. Companies would not want uncertainty in terms of the approval of a part of their product under this Uniform Standard. Another concern would be companies that went through the process to get a part of their product approved under this Uniform Standard could have a competitive advantage or create an unlevel playing field. States would want a process to determine whether to participate in a product approval under this type of standard, including a preference to opt in.

All agreed it would only be successful only when most, if not all, Compacting States would accept a product approval, in part, using this Uniform Standard.

Companies continue to express support for additional Uniform Standards to cover products or benefit features that are currently filed in states. These include Uniform Standards for value-added services, wellness benefits, ancillary, or incidental benefits. Some asked for specific Uniform Standards including for index-linked life insurance, standalone accidental death, and paid family leave. Other suggestions included product lines outside the scope of the Compact, including Medicare Supplement, hospital indemnity, group dental, and vision. Also, it was requested to devote resources to the five-year review of existing Uniform Standards.

Brainstorming on Ways to Improve Specific Processes

DISCUSSION QUESTIONS:

- Discuss the advantages, issues, and considerations if the Compact tightened the rules and processes for “reverse mix and match,” which is filing a form with a state upon or after filing with the Compact and using them in combination, as follows:
 - Based on feedback collected by the Rulemaking Committee, Compacting States are increasingly concerned that the use of mix and match is causing a Compact-approved product to be amended through a state filing that would cause the Compact-approved filing to no longer be compliant with the applicable Uniform Standards. This could be addressed by the following:
 1. More prescriptive rules in the Compact’s operating procedure such as mix and match with a state form cannot amend the Compact-approved product or cause it to be out of compliance with the applicable Uniform Standards.
 2. Require the filer to indicate in the Compact filing what state forms will be filed contemporaneously or in the future at the state level for mix and match with the Compact submission and the Compact can assess if the mix and match is objectionable under the updated rules.
 3. Restricting a company from adding state forms to a Compact filing where the state forms were not disclosed at the time of the Compact filing unless the state forms are for a benefit feature not within scope of the Uniform Standards and do not violate the updated rules.
- Turn feedback into suggested strategic action items:
 - For industry / companies / consumer representatives: What is one thing you want to share with Commissioners / regulators about the Compact process from your perspective?
 - For regulators: What is one thing you want to share with filing companies about the Compact process from your perspective?
 - Based on this feedback, provide up to three strategic action items the Compact should consider in its next strategic plan. Action items should be specific, measurable, achievable, relevant and time-bound.

SUMMARY OF DISCUSSION:

There was general agreement that mix and match is an important tool for companies to use when the Uniform Standard does not include part or all of a product component. All agreed that it was important to monitor for improper uses of mix and match, particularly where the filing in the state changes the overall product and thus no longer compliant with the Uniform Standards. Most felt comfortable having the Compact Office make the determination that companies are making mix and match requests for a legitimate purpose. Most agreed the Compact Office would have more expertise to determine whether products filed with the state are within the scope of the Uniform Standards.

There was concern that as proposed, companies could not say with certainty that it may not have future state filings for use as mix and match. Companies may be concerned with filing with the Compact if they would be prohibited from using mix and match post-approval for riders or benefit features outside the scope of the Uniform Standards.

It was mentioned that having a Uniform Standard that allows Compact approval of items outside the scope of the existing Uniform Standard, as discussed in the first breakout session, would reduce mix and match. If the item could not be approved under this new Uniform Standard, there would be a legitimate reason to use mix and match and would help identify the need for new or amended Uniform Standards.

It was mentioned that both companies and states may have to change their perspective regarding the purpose of the Compact; it is a legal mechanism to reach uniformity, which outweighs company-specific or state-specific differences with an adopted Uniform Standard.

Most supported having integration between the Compact and state filings in SERFF Modernization, allowing the Compact Office to access and view state filings to monitor proper usage of mix and match. There was a suggestion to expand the use of mix and match for all Uniform Standards so that companies do not have to file the same version of a product with a state to service state-approved products and with the Compact to service Compact-approved products such as disability income product components. Another key solution to minimizing mix and match is increasing education for states and companies on available Uniform Standards and the type of products being submitted.

There was a bit of discussion about limiting the use of mix and match to those state forms that are in SERFF. Companies indicated that would be a significant operational issue as many of their old state forms are still in service and it would be costly and disruptive to refile them. A suggestion that, at a minimum, state forms not in SERFF could be added as supporting documentation so they are transparent to the Compact and regulators.

Ideas for strategic planning included: 1) developing a filing fee calculator for Compact and state filing fees in SERFF; 2) making the completion of the Statement of Intent Schedule (mix and match) in SERFF less data intensive; 3) adding more staff to continually improve speed to approval; 4) regularly conducting five-year review of Uniform Standards; 5) identify additional forms states require with Compact-approved product.

Brainstorming on an Advisory Review Service Process

DISCUSSION QUESTIONS:

- Discuss the advantages, issues, and considerations if the Compact creates a process to provide adjunct services to states for advisory review of products or benefit features that are not within the scope of the Uniform Standards as follows:
 1. Filing would be submitted to the Compact Office for review under Uniform Standards to determine compliance and sent to the Adjunct Services Office if not reviewable under the Uniform Standards.
 2. Compact Office would provide a comprehensive advisory review and memorandum (it could include review of state-specific items if requested).
 3. Compacting States would review Compact Office memorandum and send their questions / objections / concerns and the reviewer would present those to the company.
 4. Company addresses the objections and / or removes the objecting state from the filing.
 5. Repeat process until remaining states are agreeable and Adjunct Services Office approves on behalf of the agreeable states under authority of the Compact statute to “perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.”

- If the Compact framework facilitated advisory review where the Compact Office reviewed filings on an advisory basis for participating Compacting States, not necessarily connected to those products and features observed in Breakout Session 1, what are the top 5 products or forms that would be useful to start with or pilot? (Examples: ancillary or incidental life benefits; illustrations; advertising for certain Compact-approved life or annuity products).

SUMMARY OF DISCUSSION:

There was wide support among the attendees for advisory services, where Compact staff would review a filing on states’ behalf and potentially minimize the need for companies to seek 50 state filing reviews for the same product.

Most liked that the Compact would work with states to provide the analysis under common elements as well as be aware of state-specific differences. The goal would be to reduce the redundancy of states asking the same questions in different filings, as well as see the analysis of the experts at the Compact in conjunction with the concerns raised by other states. This process could build in optionality to address state variations while achieving speed-to-market in review, approval, and deployment.

Concerns were raised about the time added to the overall review process, especially if states re-reviewed the product with the advisory recommendation. The point was made that the company may want to respond to state objections directly instead of having the Compact be the go-between.

Some saw the interconnection with the idea in the first breakout session to deal with the one-off situations applicable to the existing Uniform Standards and the adjunct services process to address the innovation of new products. It was suggested that the Compact promote the expertise and record of the Compact review team to the non-Compacting states who may have regulatory concerns, and this may encourage their use of the advisory review process.

Such a process could also be a way to forecast uniform standard development and expose current gaps in product availability. Participants agreed state buy-in on the onset of an advisory review would make the process more beneficial to industry participants.

There was a suggestion to start with a limited pilot with a small number of states, and companies can see how it works in practice before scaling up.

Ideas for advisory including excepted life benefits, annual life illustration certificates, Medicare Supplement, and advertising, especially advertising associated with Compact-approved products.