



INSURANCE MARKETPLACE
STANDARDS ASSOCIATION

Testimony of
Brian K. Atchinson
Executive Director
Insurance Marketplace Standards Association

Examination and Oversight of the Condition and Regulation
of the Insurance Industry
U.S. Senate Committee on Banking, Housing and Urban Affairs
United States Senate
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Introduction

Good morning, Chairman Shelby, and members of the Committee. Thank you for the opportunity to speak to you today on the Examination and Oversight of the Condition and Regulation of the Insurance Industry.

I am Brian Atchinson, Executive Director of the Insurance Marketplace Standards Association (IMSA). IMSA is an independent, non-profit organization created in 1996 to strengthen consumer trust and confidence in the marketplace for individually sold life insurance, annuities and long-term care insurance products. We encourage you to visit our website (www.IMSAethics.org) to learn more about IMSA.

IMSA members comprise more than 160 of the nation's top insurance companies representing nearly 60 percent of the life, annuities and long-term care insurance policies written in the United States. The IMSA Board of Directors is comprised of chief executive officers from IMSA-qualified companies as well as experts and professionals from outside the insurance industry. To attain IMSA qualification, a life insurance company must demonstrate its commitment to high ethical standards through a rigorous independent assessment process to determine the company's compliance with IMSA's Principles and Code of Ethical Market Conduct.

As a former regulator and company person, my views on the regulation of insurance are based upon a number of different vantage points. From 1992-1997, I served as Superintendent of the Maine Bureau of Insurance. From 1994-97, I represented US

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regulators in the International Association of Insurance Supervisors and in 1996, I served as President of the National Association of Insurance Commissioners (NAIC). Prior to joining IMSA, I served as an executive officer in the life insurance industry.

Ethical Standards in a Competitive Financial Services Marketplace

Life insurers face increasingly intense market competition from other providers of financial service products both domestically and internationally. In this challenging environment, it is important that financial service providers follow high ethical standards to best protect and serve consumers and to make sure the marketplace remains strong.

In the United States, IMSA develops ethical standards for the life insurance industry. To our knowledge, there is no similar organization in this country for financial services sectors dedicated to promoting ethical standards and practices.

In an era when the practices of some financial services companies have come under media and public scrutiny, IMSA continues to provide clear ethical leadership. Our Principles of Ethical Market Conduct, to which all IMSA-qualified companies must adhere, include requirements for the marketing, advertising, sales and customer service of annuities, long-term care and life insurance. (See attached Principles.) IMSA's Principles also contain a "needs-based" selling standard. We believe that all consumers – including our military service men and women -- should receive clear and honest information before they purchase any type of insurance product.

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IMSA's standards have received favorable recognition internationally as well. A recent *Financial Times* article regarding the "Restoring Trust" report on the UK's financial services industry cited IMSA as a successful example of a principles-based, industry-led approach to raising ethical standards. As competition in the financial services sector grows, ethical standards for all financial services providers, not just life insurers, could improve marketplace practices.

The Changing Role of Market Conduct Regulation

Insurance regulation is intended to ensure a healthy, competitive marketplace, to protect consumers, and create and to maintain public trust and confidence in the insurance industry.

An integral component of insurance regulation is the appropriate oversight of the ways insurance companies distribute their products in the marketplace, namely, market conduct regulation.

The history of market conduct regulation goes back to the early 1970s when the NAIC developed its first handbook for market conduct examinations and did its first market conduct investigation. We've come a long way -- by 2002, departments reported a total of 1,333 market conduct exams and 465 combined financial/market conduct exams.

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Yet as the Government Accountability Office noted in a report issued last year, there has been little consistency or uniformity in the way individual states perform market conduct oversight. For example, each company writing business nationally must comply with dozens of widely divergent state and federal standards regarding the replacement of policies. There are no logical reasons for so many different and inconsistent standards or to impose those extra and superfluous costs on companies and consumers.

The state-based system of market conduct regulation has been in need of improvement and updating for some time. Until a consistent, nationwide system of market regulation can be established, insurers will continue to be subject to simultaneous or overlapping market conduct examinations from different states applying different laws and regulations -- while consumers in some states receive little market conduct protection, as documented in the GAO study. This lack of uniformity places significant costs and human resource burdens upon insurance companies that translate into higher costs that are ultimately passed on to consumers in the form of higher prices for their products.

Making Market Conduct Regulation More Efficient

The challenge for the future is to create a uniform system of market conduct oversight that creates greater efficiencies for insurance companies while maintaining appropriate consumer protections.

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There has been some progress toward a more efficient system of market regulation and IMSA has been an active participant in these efforts. We commend the NAIC for its willingness to explore ways that regulators and best practices organizations can work collaboratively to improve market conduct regulation and advance the interests of consumers.

IMSA has worked closely with the NAIC in a variety of areas, including its recently completed two year study of best practices organizations such as IMSA. We commend state insurance regulators for pursuing a new market analysis approach to regulation that will hopefully reduce inefficiencies and better allocate resources to provide more comprehensive consumer protections. While this represents a step forward, the framework to implement this type of analysis remains under development.

In addition, IMSA was involved in development of the NAIC/NCOIL Model Law on market surveillance that promotes market analysis and greater use of insurer self-evaluative activities such as those required under IMSA standards to introduce a more uniform and efficient regulatory scheme.

IMSA has responded to requests to provide information to the House Committee on Financial Services for its draft of the State Modernization and Regulatory Transparency Act (SMART Act), which encourages state regulators to collaborate with best practices organizations such as IMSA. By introducing a uniform set of national standards for

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market conduct regulation and collaborating with best practices organizations, all consumers can be assured that every insurer will be subject to some degree of oversight.

Establishing a uniform system of market analysis in cooperation with best practices organizations would allow regulators to focus on whether an insurer has a sound market conduct and compliance infrastructure in place to better protect consumer interests.

Today's market conduct examinations tend to focus on technical instances of noncompliance rather than exploring whether a company has a comprehensive system of policies and procedures in place to address market conduct compliance issues. Uniform national market analysis also would establish a more efficient and effective regulatory process that would eliminate unnecessary duplicative costs and the administrative burdens of the current system that are ultimately passed on to consumers.

Response to Market Conduct Challenges

IMSA's mission is primarily to strengthen trust and confidence in the life insurance industry through commitment to high ethical market conduct standards. IMSA qualification also provides a consistent uniform template of market conduct compliance policies and procedures at all IMSA member companies. To become IMSA-qualified, an insurer voluntarily undergoes an internal assessment of their existing policies and procedures to determine whether they comply with IMSA standards. Then an independent assessor reviews those policies and procedures to determine that a comprehensive system of compliance exists throughout the company.

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Insurers that qualify for IMSA devote considerable resources to maintaining IMSA's standards. These companies also are well positioned to respond quickly and effectively to state market conduct inquiries and to comply swiftly with new federal or state requirements.

In the last two years, IMSA has gained greater acceptance by regulators, rating agencies, and others. A growing number of state insurance departments use a company's IMSA qualification as a tool when planning and conducting market analysis activities. We applaud these efforts and would like to see more state insurance departments using IMSA information to create greater efficiencies in the market conduct regulatory process.

During a period of time in which state insurance department budgets are often under pressure, we encourage regulators to pursue all appropriate means to leverage limited regulatory resources.

IMSA continually strives to meet the needs of consumers, companies and the marketplace as a whole by helping its member companies develop and refine an infrastructure of policies and procedures designed not just to detect but to resolve questionable marketing, sales, and distribution practices before they become more widespread.

Consumers should be able to expect honesty, fairness and integrity in their insurance transactions. Neither regulators nor companies alone can ensure that the marketplace is

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always operating in a fair and appropriate manner at all times. Organizations like IMSA, working collaboratively with regulators, can offer invaluable support for a healthy competitive marketplace and to enhance market conduct regulation.

Conclusion

The financial services marketplace is becoming increasingly competitive for life insurance companies. To be able to bring products to market and conduct their operations in an efficient manner, the life insurance industry, as represented by IMSA member companies, believes market conduct regulation should be more uniform and efficient. IMSA-qualified companies stand as the benchmark for excellence in the life insurance industry and can serve as a valuable resource to help regulators implement true market regulation reform.

IMSA will continue to work with you and state and federal officials to improve market conduct regulation for the benefit of consumers, regulators, insurers and insurance professionals alike. I would like to thank the members of this Committee for examining this crucial topic and for the opportunity to share my perspectives on this important issue.