

**INDUSTRY ADVISORY COMMITTEE
COMMENTS DATED FEBRUARY 20, 2007 RE:**

**OPERATING PROCEDURE FOR THE FILING AND APPROVAL OF
PRODUCT FILINGS
(Draft Dated December 4, 2006)**

Section 110. State Filings, Item (b)

The words “or supplemented” would appear to prevent companies from filing applications and riders for approval with the IIPRC and extending the use of such forms with all policies/contracts that had been approved by the Compacting States. Additionally, the words would also prohibit companies from filing policies/contracts with the IIPRC and extending the use of such forms with all applications and riders that had been approved by the Compacting States.

In the past several months this issue has been referred to as the “mix and match” issue. But if one considers the expectation that has been expressed by some Compacting States that companies should only be permitted to use IIPRC approved forms with IIPRC approved forms, and accordingly the companies would need to refile entire portfolios en masse to do so, a more accurate reference should be the “all or nothing” issue. We are a long way from having the “all” capability in the IIPRC, if ever, and in the interim companies may resort to continue to file with the Compacting States and grow increasingly discouraged with the IIPRC process.

To date, we have not participated in any discussion of this issue with the Rulemaking Committee, nor have we been provided with a documentation of the specific issues that the Committee identified. We had been asked to provide some comments to the Committee in late November, but besides some informal and undocumented discussions with two Compacting States, no one ever discussed the issues with us.

We suggest that a key question to be answered is: What is critical to the success of the IIPRC?

From the IIPRC perspective, we believe that the answer is a volume of filings that begins to generate revenue, as well as afford the opportunity to test the operation of the filing process (if SERFF was properly programmed to integrate the IIPRC standards and processes, if IIPRC staff have adequate training to review filings, if the turnaround for review of filings is timely, etc.). A steady volume of filings would also affirm the success of the IIPRC.

From the IIPRC Compacting State perspective, we believe that answer is the ability of the states to gradually allocate filing examiner resources to other duties. As we understand it, some of the states had already budgeted for this re-allocation, so if certain filings will not be allowed with the IIPRC and companies will continue to file with the states, states will have to continue to allocate adequate resources to review filings. It should also be noted that in several states today, filing review is at a virtual stand still due to budget and resource issues, so for these states this is a more serious issue.

From the Company perspective, we believe that the answer is, aside from the obvious single point of filing with a uniform set of product standards, the ability to file as many products/forms as are available for filing when the IIPRC becomes operational. It is also important to note that companies typically do not overhaul entire portfolios at a time, but rather they update existing components (policy, rider or application, or some combination of this) on a periodic basis to keep up with market, systems or legislative and regulatory changes. This is especially true for application forms which are used with numerous policy and rider forms, and which may not be revised and refilled for 5 or 10 years. A life application which can be used with numerous policy and rider forms is critical for companies that want to minimize confusion for agents, allow customers to see all the products that are available, streamline systems and administration, and simplify compliance requirements.

From the IIPRC, Compacting State and Company perspective: we believe that the answer is that the public must view the IIPRC as successfully addressing the uniformity and speed to market issues in the policy filing and review arena. If it is not, it will be used as an example of the ineffectiveness and maybe even failure of state regulation of the life insurance industry. This is why the IIPRC needs to provide as much flexibility as possible so it can inject itself into the companies' filing and approval process as quickly as possible.

We believe that a "mix and match" capability is critical to the success of the IIPRC and would allow companies to file with the IIPRC almost immediately. If the decision is to implement an "all or nothing" capability, companies may have no choice but to adopt a "wait and see" strategy: they will need to wait until the IIPRC has adopted all the standards that reflect the components of their life, annuity, disability and long term care portfolios and then decide whether they devote the time, money and resources to overhaul these portfolios and file these as a package with the IIPRC. ***This process could take years.***

We suggest that another key question to be answered is: What are the issues with permitting "mix and match"?

During the December 2006 NAIC meeting, we had the opportunity to meet with two Compacting State representatives to discuss some of the issues/concerns that they had. From this discussion, several issues/concerns were identified, and we are documenting these:

Some Compacting States believe that there are "legal" issues, such as the definition of "filing" in their statutes and the "Entire Contract" provision. Our answer is that most states require prior approval - this means that one can not use a form in the state until the form is first filed and approved for use. The argument we have heard is that an IIPRC approval would not constitute a "state approval". This position seems to conflict with the enactment of the Compact Model Law. By becoming a Compacting State, a state has agreed to accept the product standards as its own. As for the Entire Contract provision, all it says is that the contract will include the policy, all riders, amendments and endorsements issued with that policy, and the application if attached (companies who want to contest will attach the application). It should not matter to an insured that the application was approved by the IIPRC, and the policy and riders were approved by the state. The compatibility issue is discussed below.

Some Compacting States have advised that "mix and match" is not permitted by the Compact Model Law. No one has provided documentation of this.

Article X, Item 3 states that:

“Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.”

If the Compact Model Law intended to prohibit or qualify “mix and match”, this item would have been one obvious place to do this. On the contrary, we see nothing in the Compact Model Law which prohibits “mix and match”.

Article XV, Item 2 states that:

“The provisions of this Compact shall be liberally construed to effectuate its purposes.”

Article XVI, Item 2.a. states that:

“All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.”

We are not aware of any state law today that specifically addresses “mix and match” compatibility issues with forms approved by the state, although states permit the “mixing and matching” of forms approved at different times. We believe that the “mix and match” for state approved forms is implied and compatibility issues are the responsibility of the company and are monitored by the states during the handling of complaints or inquiries and during market conduct exams.

Some Compacting States do not want IIPRC approved forms used with forms they approved or will approve - there is concern that the standards do not exactly replicate the standards in their state. We believe that regulators, industry and consumer representatives have collaborated to develop standards of a high caliber, and that the IIPRC will review these and publish them for comments, affording all an opportunity to

polish these. After so much scrutiny, we have to believe that the Compacting States should not be having issues with the standards even if they are not exactly the same as the requirements in their state. In addition, each of the state legislatures of the Compacting States has accepted the Compact Model Law as the governing law for this subject matter.

Some Compacting States are predicting a volume of compatibility issues and that they will not have the resources to monitor these. Our answer is that we do not believe that this is the case. It is the company's responsibility to determine compatibility and it will be accountable for those determinations. We have offered to certify to compatibility. We have also offered to provide whatever additional information that the Compacting States believe would be needed to support the compatibility certification. We have also advised that market conduct examinations could monitor abuses, if any.

We believe that it is in the company's best interest to ascertain compatibility, and that not doing this would create administrative nightmares with financial consequences that would deter a company from ending up with that type of risk.

Some Compacting States have little faith in the certification process. Our answer is that the IIPRC standards rely heavily on certifications (see the ADDITIONAL SUBMISSION REQUIREMENTS sections), and a compatibility certification should not have less credence than other certifications. We have also advised that market conduct examinations could monitor abuses, if any.

In the end, the IIPRC needs to weight the disadvantages and risks of "all or nothing" against the advantages of "mix and match".

We encourage the IIPRC to allow "mix and match" capability.