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Financial Services Committee - Fall Forum Agenda

NATIONAL CONFERENCE OF STATE LEGISLATURES

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Every state has market regulation statutes and regulations that ensure fair treatment of consumers in the pricing of products and the settling of claims. Common state laws that ensure this treatment include the Unfair Trade Practices Act, the Unfair Claims Settlement Practices Act and the pooling of individual risk in the small group market.

A strong and reasonable market regulation program will discover situations in which the market place does not properly respond to actions that are contrary to the best interests of consumer. Because of this, regulators must respond and act appropriately to change company behavior. This oversight includes performing market analysis and, if needed, conducting market conduct examinations. Market analysis assists regulators in monitoring the broader marketplace so that market regulatory problems can be identified and states can better prioritize and coordinate their market regulation functions. In contrast, market examinations are focused on more of a microscopic level where company reviews are conducted to determine if companies and producers are complying with statutes, rules and regulations.

To facilitate the proper use of these tools, in September of 2003, the NAIC established market analysis, uniformity, and interstate collaboration as the three pillars on which the states' enhanced market regulatory system would rest.

In tandem with the NAIC policy, the General Accounting Office issued the report Common Standards and Improved Coordination Needed to Strengthen Market Regulation in September of 2003. Through this report, the GAO recommended that states give increased priority to identifying a common set of standards for a uniform market oversight program that includes all states.

The NAIC has a longstanding commitment and belief that most of the market regulatory reforms can be accomplished through administrative changes. At the same time, there are key areas where legislative enactment, without imposing undue constraints on state regulatory authority, would be beneficial.

States have made tremendous progress in the area of market analysis. States need full and unfettered access to necessary data and the ability to freely share this market data with each other if this progress is to continue. While the NAIC pushes forward with necessary administrative changes, legislative enactments ensuring these two key points would be beneficial. Legislative movement in the opposite direction would push states away from analysis and back toward a system of examinations to monitor the marketplace.

States cannot rely upon each other without uniform resources and the consistent utilization of these resources. To help achieve this, the NAIC continues to focus on uniform examination standards and is has expanded efforts into the development of uniform core competencies for market regulation. Legislative activity, which provides additional structure for states to improve market regulation, such as a legislative mandate for states to centrally share market data through the NAIC would be beneficial.

Interstate collaboration, which is needed to eliminate duplicative state efforts, continues to be a challenge as states continually need determine what issues are specific to one jurisdiction or impact multiple jurisdictions and warrant interstate collaboration. The NAIC supports administrative procedures and guidelines for states to follow in order to enhance interstate collaboration. At the same time, any proposal that does not protect a state's authority to take appropriate regulatory action on issues that are unique to the consumers of a particular state is not acceptable.