Supplemental Information for CEJ's Proposal to Add Credit Life to the Market Conduct Annual Statement Life Insurance Blank

March 8, 2017

The Center for Economic Justice has proposed, in conjunction with the proposed instruction to exclude credit life from the existing MCAS Life Insurance reporting, to add a separate column for credit life to the MCAS Life Insurance blank. Our original proposal explained the rationale for the addition and the ease of adding credit life reporting. Our proposal and explanation are found at:
http://www.naic.org/documents/cmte_d_mapwg_170309_materials.pdf

With this submission, CEJ repackages the information we have provided into the format of the MAP WG checklist for considering additional lines of insurance.

Justification: The addition of credit life to MCAS reporting is reasonable and necessary for the following reasons.

The rationale is straightforward – credit life is sold in a reverse-competitive market in which consumers have far less market power than in traditional life insurance markets. Credit insurance statutes and regulations recognize the weak position of consumers in credit life markets with far greater regulatory oversight of forms and rates for credit life than traditional life insurance products.

Yet, this additional regulatory oversight of forms and rates does not address unfair and abusive sales and claims settlement practices of credit insurers and lenders. As demonstrated by a recent enforcement action by the Consumer Financial Protection Bureau against CitiFinancial involving unfair and deceptive credit insurance practices, there is an urgent need for state insurance regulators to monitor credit life insurance market practices and consumer outcomes via the MCAS. The CFPB's consent order with CitiFinancial included the following related to credit insurance practices:[1]

- However, Respondent failed to terminate the Credit Insurance in accordance with the terms of the note for many borrowers. Since July 2011, approximately 7,800 borrowers paid at least $3.75 million to Respondent in premiums for Credit Insurance that should have been canceled under the terms of their promissory notes.

- Before April 2015, Respondent improperly prematurely cancelled the Credit Insurance of certain borrowers contrary to the terms of their note. Twenty-five of those borrowers subsequently submitted an insurance claim that was denied because Respondent had improperly cancelled the borrowers' Credit Insurance. The maximum total benefit those borrowers may have been eligible to receive was approximately $442,289.

[1] http://files.consumerfinance.gov/f/documents/201701_cfpb_CitiFinancial-consent-order.pdf

The addition of credit life reporting to the Life MCAS blank would consist almost entirely of simply adding a column for credit life experience. Stated differently, reporting of credit life experience would use the existing data elements for individual cash and non-cash life insurance MCAS reporting with the following additions/changes.

The addition of credit life has a large benefit to cost ratio because the information would enable new and important market analysis by regulators related to credit life and, consequently, enable more focused regulatory efforts, including leaving alone those credit insurers who produce good consumer market outcomes.

MCAS Additional Lines Proposal – Required Information:

All recommendations must include a concise statement containing the following:

a. A statement explaining how this line of business will further the objectives of and improve efficiency of market regulation in general;

b. Why collecting data in this formation is the most expeditious manner to do so (for example, rather than a one-time data call for a specific situation);

c. How the addition of this line of business will benefit the consumer;
d. Evidence that addition of this line of business is cost effective.

Response:

The purpose of MCAS is to produce more efficient market regulation, more efficient and effective collection of market regulation data and to benefit consumers through more effective market regulation. Consequently, any MCAS line of business will, by definition, respond to positively to questions a, b, and c. The roadmap to more efficient and effective market analysis and market regulation is to extend MCAS reporting to all lines of business and to continually enhance the data reported for each MCAS line of business.

MCAS reporting enables market regulators to pro-actively perform more robust market analysis and better identify problem markets and companies with much greater likelihood of discovering problems early enough to prevent some consumer harm. MCAS reporting produces more efficient and effective market regulation by providing market outcome data to regulators on a routine basis which results in more efficiency and accuracy of reporting for regulators and insurers, in more robust market analysis that can span multiple years and jurisdictions and which allows market regulators to focus on problem companies while leaving alone those companies with good market outcomes for consumers. Routine collection of data improves the quality of reported data and reduces the costs of collection for regulators and reporting by insurers compared to special data calls. A granular MCAS reporting format can eliminate nearly all special data calls. Consumers benefit from more robust market analysis because such analysis allows regulators to more pro-actively spot mistreatment of consumers. Since these are the premises behind market analysis, generally, and MCAS, specifically, it is nonsensical to ask this question for each new MCAS line of business.

Item d is also a nonsensical question. As a general proposition, routine collection of data is more cost effective than reliance on special data calls – in addition to providing regulators with information when needed as issues arise instead of having to collect data through a special call after a market problem has been identified. While the cost to the NAIC for collecting MCAS data is known, the cost to insurers is unknown and not feasible to ascertain without first identifying the data elements to be collected. It is only during the process of developing the specific data elements to be included in the MCAS line of business that regulators and industry can identify those data elements most difficult or costly to collect. Finally, determining whether data collection is cost-effective means comparing benefits and costs. Neither costs nor benefits are easily quantified, but, again, the premise behind MCAS is that it is a more cost-effective method of obtaining the raw material for enhanced market analysis than the alternatives.

Required Information

Supporting documentation must accompany the request for consideration.

a. Is this line/product subject to regulation by any other agency such as the IRES, NASD, SEC, HHS? If so, which one(s)?

While credit insurance is regulated solely by state insurance departments, sales of credit insurance by lenders is subject to oversight by the Consumer Financial Protection Bureau pursuant to federal lending laws and the CFPB's oversight of lenders. The CFPB enforcement actions, above, illustrates the intersection of insurance and lending regulation.

b. Is this line/product currently reporting data on a periodic basis to any state(s)? If yes, which one(s) and what is being reported

Credit Life experience reporting is included in the statutory annual statement for life insurers. The credit life experience within the key annual statement exhibits is of limited use for market analysis as it does not contain any substantive state-specific information. Credit life experience is also reported in the Credit Insurance Experience Exhibit and reported by state and by product. However, these data elements are designed for rate regulation of credit life and contain no data elements related to claims settlement outcomes or sales practices.

The supporting documentation must also contain the following Quantitative Factors:
a. The number of carriers writing premium for this line;

The NAIC publishes an annual report of credit life and credit accident and health experience. The most recent edition is found at:
http://www.naic.org/prod_serv/CRE-ZB-16.pdf

The report shows insurers writing credit life on a countrywide basis and premium and claims experience on a state-by-state basis.

The in-force premium and new premium volume for each of the last 5 – 10 years;

This information is found in the NAIC report, cited above.

c. The number of policies in-force in each of the last 5 – 10 years;

The ACLI Fact Book compiles information from statutory annual statements for life insurance products, including credit life. Table 7.9 of the 2016 edition shows credit life certificates in force over the past 115 years. The ACLI Fact Book is found at:
https://www.acli.com/-/media/ACLI/Members/Files/Research/Policy-Research/Fact-Book/2016LIFactBook.ashx?la=en

d. The number of policyholders for each of the last 5 – 10 years;

See response to question c, above.

e. The number of claims paid each year for the last 5 – 10 years;

This is precisely the type of information needed, but not available, demonstrating the need for MCAS data collection for credit life.

f. The total number of complaints or inquiries received nationally in each year for the last 5 – 10 years.

CEJ has not compiled these data, but the data are available to regulators. However, complaints or the lack of complaints are not indicative of market problems, particularly for an insurance product life credit life. Consumers are unlikely to file complaints with insurance regulators since the products are sold by lenders.

g. A list of states/jurisdictions in which the line/product is sold;

Credit life is sold in all states and most jurisdictions.

h. Any other data specific to the line/product that would support recommendation. Note: the number of years reported for items 4a – 4g should be consistent.

Yes. In addition to the enforcement action by the CFPB above, sales of credit-related insurance – including credit life – have been a source of consumer abuse in the United States and around the world. In the U.S. sales of financed single premium credit insurance in connection with mortgage loans was deemed abusive by the Departments of Housing and Urban Development and Treasury. Regulatory investigations have identified abusive sales of credit insurance in the United Kingdom, South Africa and Australia.