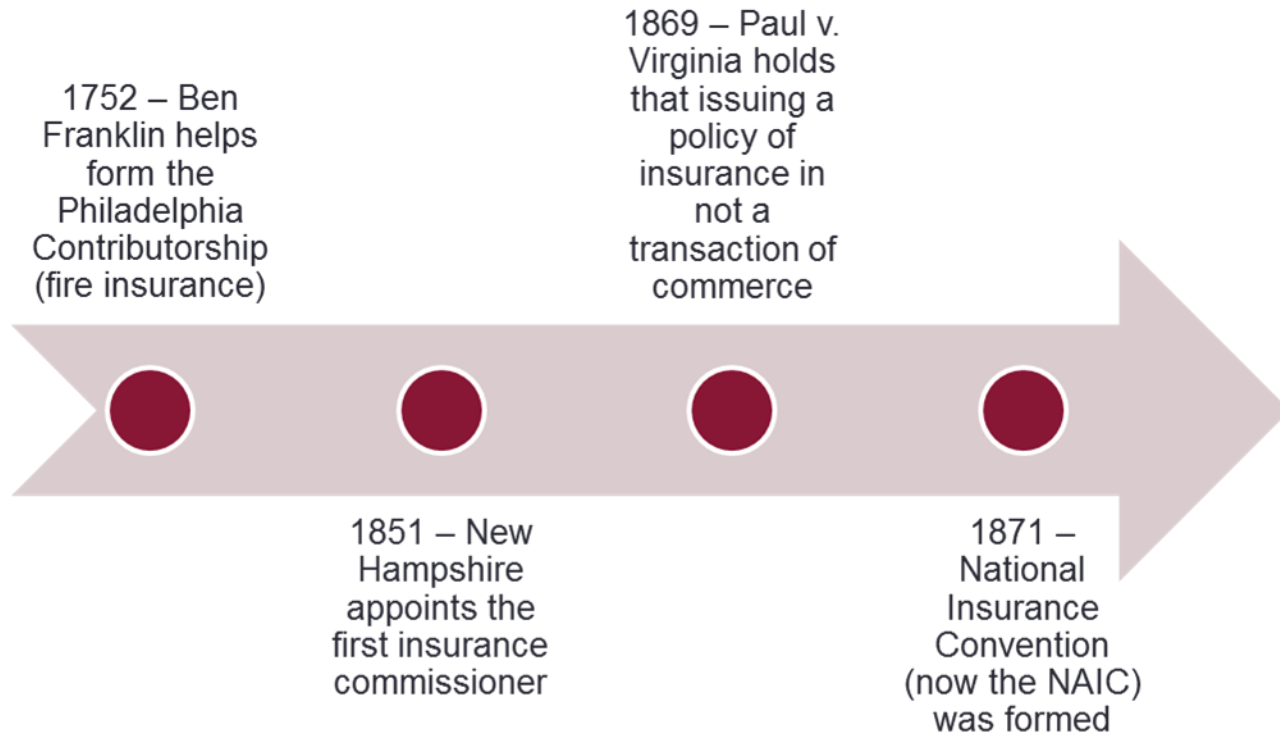


# Introduction

- Insurance (risk distribution) is not a new concept
  - The regulation of insurance is also not “new”
- 1760 BC: The first historical reference to insurance in the Babylonian Code of Hammurabi
  - The codification of personal and commercial law includes references to loans that a trader could secure on his ship
  - For an additional cost, it was possible to arrange a loan so that if the ship sank the loan was not repayable
  - This was effectively a form of marine insurance — with insurance not as a separate industry to banking, but as an optional add-on to lending

# US Insurance – A brief history



# US Insurance history (continued)

1944 – *United States v. South-Eastern Underwriters Association*: insurance transactions subject to federal regulation under the Commerce Clause

1999 – Gramm-Leach-Bliley Act repeals Glass-Steagal, allowing for affiliation between financial institutions and insurance companies

1945 – McCarran-Ferguson Act enacted, reinstating the states as the primary regulators of the business of insurance

2010 – Dodd-Frank Act creates the Federal Insurance Office (but bestows very little power)

# Why do states regulate insurance companies?

- Insurance regulation focuses on 3 main themes
  - Solvency – ensure insurers can pay claims
  - Fair products/services – protect insureds against unfair insurance practices
  - Money – state regulation of insurance generates billions of dollars in revenue for states (\$18.6B in 2010)
- Only \$1.24B went to regulate the business of insurance
- The rest went to the states' general funds
- MCEs contribute to the bottom line – Insurance regulation is BIG business
- *Question: In what order do you think the states prioritize the above? In what order should they prioritize?*

# How do states regulate insurance companies?

- Licensing – e.g., at the company and individual level for those that sell and administer the product
- Product regulation – e.g., forms and rate approvals
- Financial oversight – quarterly, annual, one-off reports, audits and examinations
- Market regulation – Market Conduct Annual Statement (MCAS) via the NAIC
- Market Conduct Examinations

# Types of Insurance Regulatory Market Conduct Exams

## 1. Statutory Exams

Every 5 years (similar timing to financial exams)  
for domestic carriers.

## 2. Target Exams

Can be triggered by:

- a) Claims
- b) Advertising / Marketing
- c) IRIS Ratio Issues

For example: product mix: ratio 10

change in premium: ratio 9

- d) Complaints
- e) Increasing systems or data breaches
- f) High reliance on third parties for compliance responsibilities

# 2017 Market Regulation Handbook Examination Standards Summary

## Chapter 16 – General Examination Standards

- Operations / Management
- Complaint Handling
- Marketing and Sales
- Producer Licensing
- Policyholder Service
- Underwriting and Rating
- Claims

# Remote Examinations

1. About 15% of carriers have secure system applications that allow for remote access
2. Remote access requires direct read-only view of carrier databases
  - a) Underwriting database
  - b) Claims database
  - c) Licensing database
3. Regulators support and prefer remote access in most situations
  - a) Cost savings
  - b) Efficiencies
  - c) Less interpretation required by carrier as to data that responds to specific request.



# What do Examiners Look For?

- COMPLETE files
- Written procedures
  - Important to note, solid procedures and demonstrated use may result in file review not being required.
- Ongoing training of staff
- Policy administration in accordance with contract provisions
- Quality assurance and self-audits
- Adherence to regulatory timelines

# What do Examiners Look For? (cont.)

- Misrepresentation of pertinent facts about a policy
- Failing to act promptly to communications
- Failing to promptly settle claims
- Refunds and cancellation of interest rates as applicable continue to be a focus
  - Follow the money--

# Survey of 10 Market Conduct Chief Examiners Summary of Red Flags

- Lack of timeliness in response
- Incomplete data
- Lack of procedures or procedure manuals with no history (as if they were created “for” the exam)
- No internal quality assurance or self audit processes
- “I don’t know” responses in internal interviews
- “Cooperation” “Transparency” and “Communication” were all buzz words used by the examiners

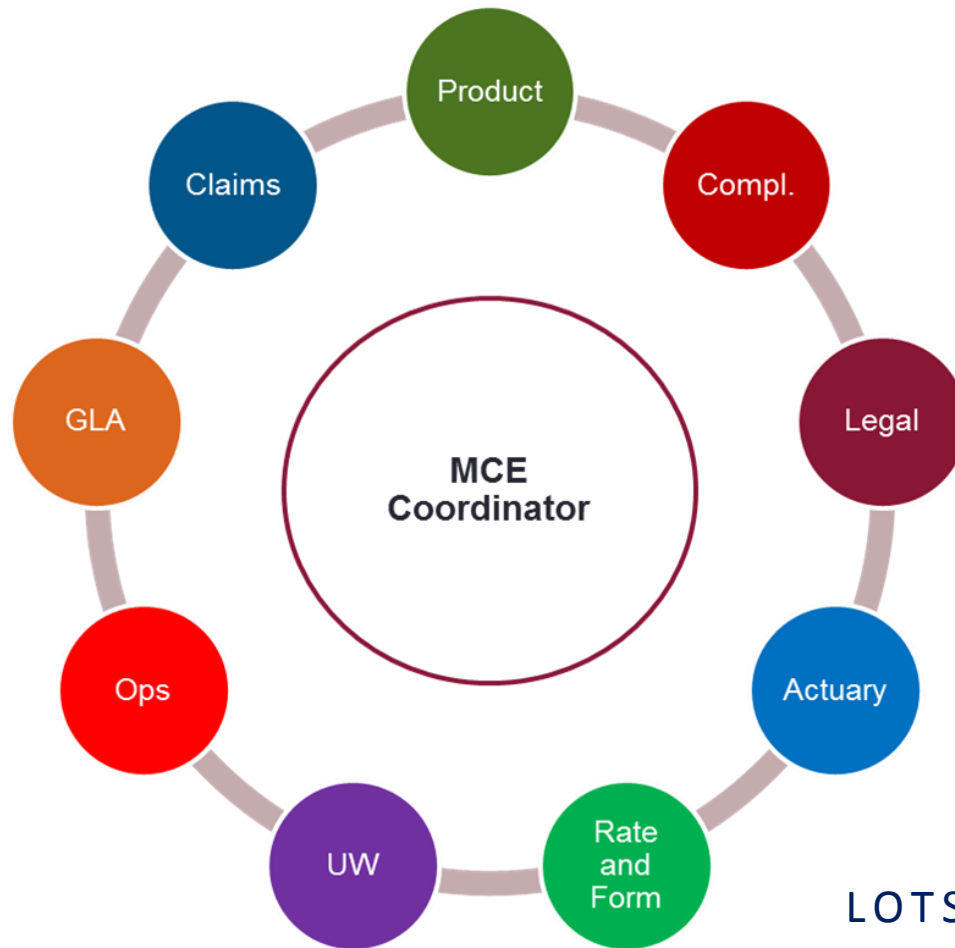
# Multistate Market Conduct Exams

- Exam coordinated through the NAIC
- Market Action Working Group (MAWG) tracks data from the Market Conduct Annual Statement (not a filer as yet) – issues are targeted by MAWG
- Can result from data breach or more recently unclaimed property issues

# Multistate Market Conduct Exams (cont.)

- Lead state (often domestic state) is identified
- 9/10 multistate exams result in settlement - some very large
- Open and consistent communications with domestic regulator of perceived potential issues are vital. They can be your advocates at MAWG and head off a full blown multistate exam

# Who works on MCE at a company



LOTS OF PEOPLE!

# Examples of who works on MCEs

- Product/Process Owners
  - Works with business area staff to provide data requested
  - Accountable for data collection, provision, accuracy
  - Collaborates with Business Compliance Leader on questions, issues
- Business Compliance Leader/Area Coordination
  - Coordinates exam requests with various product, process SMEs
  - Drafts, collaborates and finalizes regulator requests with other team members
  - Performs a review of information provided by Product/Process Owners prior to submittal to Exam Coordinator
- Exam Oversight/Coordination
  - Point of contact for regulator
  - Performs final high level review of information provided regulators
  - Collaborates with Product/Business Compliance Leader and Legal on strategy, responses, etc.
- Legal
  - Provides legal advisement to Product/Process Owners/Business Compliance Leader
- Corporate & Legislative Affairs
  - Regulator manager for significant individual regulatory issues

# Common MCE criticisms

- Non-compliant forms (e.g., mistakes and/or use of non-approved forms/language)
- Sales practices (e.g., failure to provide proper disclosures or timeliness in doing so, agent conduct/suitable sales)
- Unlicensed producers/agents
- Claims practices (e.g., inconsistency with forms language and/or laws/regs, timeliness, penalty and/or interest rate)
- Refunds (e.g., method of, timeliness and/or consistency)
- Record keeping (e.g., improper documentation in files, availability of files/information, failure to timely respond to DOI or produce records)



# Best Practices

- Pay attention to the regulatory trends externally and internally – stay in front of potential concerns
  - Be proactive within the company and with the regulator
    - Communication – This may include asking questions to ensure you’re providing the data the regulators want
  - “An ounce of prevention is worth a pound of cure.” Benjamin Franklin
  - More and more, states talk to each other and companies operated in multiple states – criticisms are less likely to be isolated
- Compliance is part of the day-to-day running of a product – it requires thoughtful time commitment, money and decisions
  - “It takes 20 years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently.” Warren Buffett

# Best Practices-Cont.



# Market Regulation Morphing From Exam Based to Data Based

- Most states (49 in 2016) require insurers file the Market Conduct Annual Statement for many lines of insurance
- Currently credit is not included in the MCAS but carriers may want to review the data requirements and begin collecting that data. The CCIA was successful in delaying credit inclusion in the MCAS recently but data analysis by way of the MCAS may be in the future.

# Market Regulation Morphing From Exam Based to Data Based (cont.)

- Health MCAS was adopted in 2016 and data for 2017 is not due until September 2018. As a result other lines may have a reprieve from implementation.
- Lender Placed Home and Auto added to the MCAS in 2017, data collected in 2018, due to be filed June, 2019.

Questions?