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February 20, 2019
Director Bruce R. Ramge, Chair
Market Conduct Examinations Standards (D) Working Group
National Association of Insurance Commissioners
1100 Walnut Street, Suite 1500
Kansas City, MO 64106

Attn: Petra Wallace

Via e-mail: pwallace@naic.org

Re: Insurance Data Security Pre-Breach and Post-Breach Checklists –ACLI REDLINE of Revised 12-17-18 Draft

Dear Director Ramge:

The American Council of Life Insurers (ACLI) advocates on behalf of 280-member companies dedicated to providing products and services that promote consumers' financial and retirement security. 90 million American families depend on our members for life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

ACLI thanks the Market Conduct Examination Standards (D) Working Group (Working Group) for its continuing discussion of the Insurance Data Security Pre-Breach and Post-Breach Checklists (Checklists), proposed to be included in the Market Regulation Handbook (Handbook) and the opportunity to offer these comments, along with a proposed redlined draft to the most recent NAIC (12/17/18) draft of the Checklists.

ACLI appreciates the inclusion of the Note at the beginning of the Checklists that provides that the following guidance should only be used in states that have adopted the NAIC Insurance Data Security Model Law (Model Law) or substantially similar legislation and that it is important examiners obtain an understanding and leverage the work performed by other units of the department.

As discussed in ACLI's December 18, 2018 Comments, and on the NAIC's December 19, 2018 Working Group call, ACLI reiterates it is not the purpose of the Handbook to specify how jurisdictions allocate market and financial regulation staff when conducting an insurance data security exam. At the same time, ACLI respectfully submits that performance of pre-beach assessments solely as part of the financial examinations will further insurers' resiliency, provide for examinations by individuals likely to have more appropriate expertise for assessing insurers' information security systems, promote efficiency and avoid duplication of work and inconsistent application of examination standards. Accordingly, ACLI respectfully urges the Working Group not to recommend inclusion of a pre-breach Checklist in the Handbook for use as part of a market conduct exam.

If the Working Group determines the above is not possible, in line with discussion during the 12/19/18 Working Group call, ACLI urges modification to the current (12/17/18) draft of the Checklists to provide for the Handbook to: (i) incorporate a post-breach checklist only; and (ii) make any pre-breach guidance available in the Handbook reference documents.

If a pre-breach checklist is provided in the Handbook or its reference documents, ACLI urges that it be preceded by a reminder to examiners that the Model Law specifies that its requirements are to be based on a licensee's risk profile and that insurers' data security systems are to be risk-based.

Further, in line with other comments submitted to the Working Group, ACLI is concerned that a number of the criteria in both the pre-breach checklist and the post-breach checklist are not in the Model Law or deviate from the corresponding provisions of the Model Law. Therefore, along with these comments, we respectfully submit an initial redline draft of the NAIC's 12/17/18 draft of the Checklists to most-closely track the language of the Model.

Therefore, ACLI respectfully submits our redline modifications to the criteria included in any pre or post breach checklist included in the Handbook, or any reference documents of the Handbook, with best efforts to track the language of the Model Law to the greatest extent possible.

ACLI appreciates and thanks the Working Group for its consideration of our concerns and would be glad to answer questions relating to any of the above.

Respectfully submitted,



Emily Micale

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