ACORD ANTITRUST/COMPETITION LAW POLICY

EFFECTIVE: APRIL 4, 2018

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ACORD Policy on US Antitrust Compliance

Association for Cooperative Operations Research & Development
One Blue Hill Plaza, 15th Floor, Pearl River, NY 10965-8529
Effective: April 4, 2018

ACORD Corporation maintains an exemplary record of complying with the antitrust laws and with your help we can continue to do so. It is the policy of ACORD that its standards-setting program comply in all respects with the letter and spirit of federal and state antitrust laws.

Compliance with the antitrust laws is not only a legal obligation but is also in the best interest of ACORD and its membership. The central purpose of ACORD standards is to enhance the efficiency and competitiveness of the insurance industry. That goal requires standards that maximize the widest possible range of computer hardware, software and Internet products. Thus, attempts to misuse the standards-setting process to favor one vendor's products at the expense of others, or otherwise to limit product availability and innovation, directly conflict with ACORD's fundamental mission. Any violation of the antitrust laws would, moreover, seriously damage the credibility of the ACORD standards-setting program.

Of equal importance, violations of the antitrust laws could result in severe sanctions against ACORD, its member companies, and others involved in the standards-setting process. The antitrust laws entitle any company or person, injured by an antitrust violation, to sue for three times the damages suffered. These "treble damage" actions can result in huge jury awards and, at a minimum, necessitate heavy defense costs and disrupt normal business activities.

Because of the uncertainty involved in determining the application of the McCarran-Ferguson Act and various immunities from state antitrust laws to standards relating to computer, communications and Internet hardware and software, it is imperative that we avoid any possible suspicion that our conduct violates the antitrust statutes.

To implement this policy of antitrust compliance, the ACORD Board of Directors has approved the attached **ACORD US Antitrust Compliance Guidelines**. These guidelines go beyond the strict requirements of the antitrust laws, so that ACORD can maintain the highest standards of business ethics. All participants in the standards-setting program should familiarize themselves with the guidelines and carefully observe them.

Under the antitrust laws, the actions and statements of those serving as ACORD officers, directors, employees, and members of councils and groups involved in the standards process, may be binding on ACORD. This remains true even when an individual acts without authorization, but appears to an outsider to have the proper authority to represent ACORD.

Therefore, no officer, director or employee of ACORD, or ACORD council or group member, has the authority to take any action that might violate the antitrust laws or the **ACORD US Antitrust Compliance Guidelines**. Moreover, no officer, director, employee, council or group member has the authority to direct, approve or condone any such action. To the contrary, all participants in the ACORD standards-setting process have the affirmative responsibility to ensure that those working under them comply with the law and ACORD's guidelines.

Violations of the guidelines will be grounds for disciplinary action, adapted to the circumstances of the particular violation. Serious, intentional violation of the ACORD guidelines will be brought

to the attention of the ACORD Board of Directors and will usually result in suspension of the right to participate in the standards-setting process. The ACORD Board of Directors may also refer suspected anti-competitive conduct to the attention of appropriate antitrust enforcement agencies.

ACORD Board of Directors

ACORD US Antitrust Compliance Guidelines

The **US Antitrust Compliance Guidelines** are designed to help you identify potential problem areas, but they cannot provide answers to every possible question. Accordingly, the Board of Directors has appointed the Corporate Secretary as antitrust compliance officer. You should contact him or her whenever you have a question or concern with antitrust compliance. He or she will have available the resource of outside antitrust counsel for advice on legal issues.

The purpose of these guidelines is to ensure that all participants in the ACORD standards-setting program comply fully with the letter and spirit of federal and state antitrust laws. Any questions concerning the applicability of these guidelines, or any other question or complaint relating to antitrust compliance, should be directed to the ACORD antitrust compliance officer.

A. The Applicability of Antitrust Laws to Standards-Setting

Federal and state antitrust laws apply to ACORD's standards-setting program because it entails a cooperative effort among competing insurers and competing vendors of computer hardware, software and Internet products and services. It is well-established, however, that industry standardization programs do not offend the antitrust laws if the standards promote efficiency and do not restrain price competition, restrict terms of sale, limit production, result in boycotts or exclusion of competitors, restrict product innovation or otherwise limit competition unreasonably.

ACORD's standards-setting program fully meets these requirements. By standardizing the communications process among all trading partners, ACORD fosters efficiency by reducing transaction costs and speeding up information flows. Furthermore, ACORD's standards enhance the ability to work with multiple trading partners, thereby increasing the competitive sources of supply available to insurance consumers. As a result, the goals of the ACORD standards-setting process are fundamentally pro-competitive.

Nevertheless, every standards-settings program, including ACORD's, has the potential for being misused towards anti-competitive ends. Industry standards can have a significant impact on the product preferences of buyers in the marketplace. Consequently, the sellers of those products may have an incentive to seek the adoption of standards that would exclude or disadvantage products of their competitors, or otherwise restrain trade. Because of this possible incentive, "product standards have a serious potential for anti-competitive harm" and "private standard-setting associations have traditionally been objects of antitrust scrutiny." Allied Tube & Conduit Corp. v. Indian Head, Inc., 108 S. Ct. 1931, 1937 (1988). To comply with the antitrust laws, therefore, standards-setting associations must adopt "procedures that prevent the standards-setting process from being biased by members with an economic interest in stifling product competition." Id.

ACORD has adopted four types of procedures for the purpose of antitrust compliance. These are: (1) procedures guaranteeing that all interested parties have an opportunity to express their views on proposed standards; (2) rules assuring impartiality, that is, guarding against attempts to subvert the integrity of the process; (3) prohibitions against attempts to coerce adherence to standards, as opposed to voluntary use; and (4) bans on competitor discussion of competitively-sensitive subjects not relevant to the standards process (e.g., individual company strategies on pricing and marketing). Specific guidelines in each of these four categories are set forth below.

B. Open Access to the Standards-Setting Process

Participation in the standards-setting process shall be open to all interested parties through ACORD membership and as otherwise described in ACORD's Standards Programs General Guidelines & Procedures. ACORD membership is available to insurers, agents and vendors of standards-related products or services, among others. No insurer, producer or vendor shall be excluded because of its manner of doing business or method for distribution of insurance. No ACORD officer, director or member shall take any steps to preclude or discourage participation as described above by any interested person.

C. Procedures Assuring the Integrity of the Standards-Setting Process

1. Anti-Competitive Conduct

No participant in the standards-setting process shall seek adoption or modification of a standard for the purpose of excluding products of competitors from the market or otherwise restraining competition.

2. Role of ACORD Staff and Antitrust Compliance Officer

It shall be the responsibility of the ACORD staff to evaluate all proposed standards and revision of standards to determine that they do not unreasonably exclude any product from the relevant market and do not have an improper anti-competitive purpose. The staff shall refer any suspected instances of anti-competitive exclusion or similar conduct to the antitrust compliance officer, who shall make further inquiry and consult legal counsel as necessary. Additionally, any participant in the standards-setting process or other affected party may bring any complaint of anti-competitive conduct to the antitrust compliance officer. The antitrust compliance officer shall recommend any disciplinary action to the ACORD Board of Directors.

3. Disciplinary Action

Any party that is the subject of such recommendations for disciplinary action may appear before the antitrust compliance officer to present its views, as may any complaining party. Upon the recommendation of the antitrust compliance officer , the ACORD Board of Directors may take any appropriate action, including but not limited to: (a) suspension of a party from further participation in the standards-setting process; (b) suspension of voting rights; (c) referral of the matter to appropriate antitrust enforcement agencies; or (d) modification of final or proposed standards to cure the effects of any anti-competitive conduct. No member of the ACORD Board of Directors employed by or affiliated with any party which is the subject of disciplinary recommendations, or which is a complaining party, shall participate in the applicable proceedings.

4. Approval of Standards

Approval of standards shall be subject to the voting requirements set forth in the Standards Program General Guidelines & Procedures. No company shall have more than one vote regardless of how many individuals represent it at a given meeting. Those voting against a proposed standard shall have the opportunity to submit dissenting views in writing. Such views shall be made available to all participants eligible to vote.

5. Conflicts of Interest

No member of a Program Advisory Council shall be employed by and have direct line responsibility for any computer or Internet vendor operation. Furthermore, all nominees to the Program Advisory Councils or the ACORD Board of Directors shall disclose whether: (a) they have a personal financial interest in any vendor that might be affected by ACORD standards; or (b) are employed by an insurer having an affiliated vendor of computer or Internet products or services; or (c) serve as a consultant to a vendor of computer or Internet products or services.

The antitrust compliance officer shall conduct investigations where necessary to determine whether there is a conflict of interest that should disqualify an individual from service on any Program Advisory Council or a failure to make disclosures required of members of Standards Project Groups. Any complaint concerning conflicts of interest or failures to disclose may be brought to the attention of the antitrust compliance officer. The antitrust compliance officer shall make any appropriate recommendations to the Board of Directors concerning conflicts of interest or failures to disclose, including recommendations of appropriate disciplinary action (e.g. removal from office) or requiring additional disclosures. No member of the ACORD Board of Directors that is the subject of such a recommendation shall vote on the proposed action.

D. Voluntary Use of Standards

1. Voluntariness

The implementation and use of ACORD standards shall be entirely voluntary on the part of member companies, agents, vendors and others. No ACORD officer, director, staff, member company, subscriber or participant in the standards-setting process may enter into unlawful agreements concerning use of ACORD standards, attempt to coerce use of such standards or retaliate against a company for not using the standards (e.g., exclusion from a Standards Project Group).

The antitrust compliance officer may investigate any alleged violations of the foregoing on his or her own motion, on the advice of ACORD staff or upon receiving a complaint from any affected party. The antitrust compliance officer may make appropriate recommendations for disciplinary action to the Board of Directors, including but not limited to suspension of the right to participate in the standards-setting process or referral to appropriate antitrust enforcement agencies.

2. Statements Accompanying Publication of Standards

When ACORD publishes an approved standard, it shall state that:

(a) Implementation and use of the standard is voluntary;

(b) Publication of the standard does not imply that there is an operations requirement for hardware or software or Internet products or services meeting the specified standard;

(c) ACORD does not endorse any product or service designed or built to the standard.

E. Prohibition on Discussions of Competitively-Sensitive Topics

The antitrust laws also prohibit use of the standards-setting process as a forum for competitors to enter into agreements to restrain trade. The most serious antitrust violations are:

1. Price-fixing agreements, that is, agreements to raise or stabilize prices or an element of pricing;

2. Boycotts, that is, agreements to refuse to deal, or agreements to threaten to refuse to deal, with competitors, customers or suppliers; and

3. Agreements among competitors allocating customers, territories or percentage shares of the market.

These types of agreements are usually deemed illegal per se, meaning that the courts will not consider any excuses or justifications, whether ignorance of the law, good faith or reasonableness. Nor is it a defense that the agreement did not actually result in price increases or otherwise harm competition.

"Agreements" within the meaning of the antitrust laws include more than written contracts or explicit conversations at a meeting. In addition, an agreement may take the form of a tacit understanding, what the courts sometimes describe as a "meeting of the minds" or a "knowing wink." Consequently, discussions of competitively sensitive subjects may be perceived as circumstantial evidence of an illegal agreement, especially when coupled with parallel conduct in the market (e.g., parallel price increases).

The standards-setting process often requires discussions of the types of information needed in order to conduct the business of insurance; however, it does not require discussions related to the use of such information for competitive purposes or require disclosure of competitively-sensitive practices. Accordingly, anyone participating in the ACORD standards-setting process should assiduously avoid discussion of the following competitively sensitive topics:

Insurance Industry Participants

(1) Current or future rates and pricing strategies;

(2) Internal underwriting standards or guidelines, including favored or disfavored classes of customers;

(3) Marketing plans, particularly plans to withdraw from a particular state, territory or line of business;

(4) Internal guidelines for coverages, especially exclusions, limits and deductibles;

(5) Current or future agent commissions, complaints about rebating of commissions or complaints about agent terminations;

(6) Efforts to combat or retaliate against competition using other distribution systems, mass marketing programs, or banks.

Suppliers of Products and Services to Insurance Industry Customers

(1) Current or future prices, including list prices, discounts, prices in recent transactions with individual customers, or complaints about price discounting;

(2) Unannounced plans for introduction of new products or changes in existing products;

(3) Current or future plans concerning production or output;

(4) Marketing plans or strategies, particularly desired or undesired classes of customers;

(5) Complaints about excessive competition or efforts to stabilize competition.

ACORD Policy on EU Competition Law Compliance

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Effective: April 4, 2018

ACORD Corporation maintains an exemplary record of complying with competition laws and with your help we can continue to do so. It is the policy of ACORD that its standards-setting program comply in all respects with the letter and spirit of European Union and Member State competition law.

Compliance with the competition laws is not only a legal obligation but is also in the best interest of ACORD and its membership. The central purpose of ACORD standards is to enhance the efficiency and competitiveness of the insurance industry. That goal requires standards that maximize the widest possible range of computer hardware, software and Internet products. Thus, attempts to misuse the standards-setting process to favor one vendor's products at the expense of others, or otherwise to limit product availability and innovation, directly conflict with ACORD's fundamental mission. Any violation of the competition laws would, moreover, seriously damage the credibility of the ACORD standards-setting program.

Of equal importance, violations of the competition rules could result in severe sanctions against ACORD, its member companies, and others involved in the standards-setting process. Competition law entitles any company or person, injured by a violation of the rules, to file a complaint with EU or Member State competition authorities. These actions can result in huge fines and, at a minimum, necessitate heavy defense costs and disrupt normal business activities.

To implement this policy of competition law compliance, the ACORD Board of Directors has approved the attached **ACORD EU Competition Law Compliance Guidelines.** These guidelines go beyond the strict requirements of EU and Member State competition law, so that ACORD can maintain the highest standards of business ethics. All participants in the standards-setting program should familiarize themselves with the guidelines and carefully observe them.

Under the competition laws, the actions and statements of those serving as ACORD officers, directors, employees, and members of councils and groups involved in the standards process, may be binding on ACORD. This remains true even when an individual acts without authorization, but appears to an outsider to have the proper authority to represent ACORD.

Therefore, no officer, director or employee of ACORD, or ACORD council or group member, has the authority to take any action that might violate competition law or the **ACORD EU Competition Law Compliance Guidelines**. Moreover, no officer, director, employee, council or group member has the authority to direct, approve or condone any such action. To the contrary, all participants in the ACORD standards-setting process have the affirmative responsibility to ensure that those working under them comply with the law and ACORD's guidelines.

Violations of the guidelines will be grounds for disciplinary action, adapted to the circumstances of the particular violation. Serious, intentional violation of the ACORD guidelines will be brought to the attention of the ACORD Board of Directors and will usually result in suspension of the right to participate in the standards-setting process. The ACORD Board of Directors may also refer suspected anti-competitive conduct to the attention of appropriate competition enforcement agencies.

ACORD Board of Directors

ACORD EU Competition Law Compliance Guidelines

The **EU Competition Law Compliance Guidelines** are designed to help you identify potential problem areas, but they cannot provide answers to every possible question. Accordingly, the Board of Directors has appointed the Corporate Secretary as EU competition law compliance officer. You should contact him or her whenever you have a question or concern with competition law compliance. He or she will have available the resource of outside competition counsel for advice on legal issues.

The purpose of these guidelines is to ensure that all participants in the ACORD standards-setting program comply fully with the letter and spirit of EU and Member State competition laws. Any questions concerning the applicability of these guidelines, or any other question or complaint relating to competition law compliance, should be directed to the ACORD competition law compliance officer.

A. The Applicability of Competition Law to Standards-Setting

EU and Member State competition laws apply to ACORD's standards-setting program because it entails a cooperative effort among competing insurers and competing vendors of computer hardware, software and Internet products and services. It is well-established, however, that industry standardization programs do not offend the competition laws if the standards promote efficiency and do not restrain price competition, restrict terms of sale, limit production, result in boycotts or exclusion of competitors, restrict product innovation or otherwise limit competition unreasonably.

ACORD's standards-setting program fully meets these requirements. By standardizing the communications process among all trading partners, ACORD fosters efficiency by reducing transaction costs and speeding up information flows. Furthermore, ACORD's standards enhance the ability to work with multiple trading partners, thereby increasing the competitive sources of supply available to insurance consumers. As a result, the goals of the ACORD standards-setting process are fundamentally pro-competitive.

Nevertheless, every standards-settings program, including ACORD's, has the potential for being misused towards anti-competitive ends. Industry standards can have a significant impact on the product preferences of buyers in the marketplace. Consequently, the sellers of those products may have an incentive to seek the adoption of standards that would exclude or disadvantage products of their competitors, or otherwise restrain trade. Because of this possible incentive, product standards have a serious potential for anti-competitive harm. To comply with competition law, therefore, standards-setting associations must adopt procedures that prevent the standards-setting process from being biased by members with an economic interest in stifling product competition.

ACORD has adopted four types of procedures for the purpose of competition law compliance. These are: (1) procedures guaranteeing that all interested parties have an opportunity to express their views on proposed standards; (2) rules assuring impartiality, that is, guarding against attempts to subvert the integrity of the process; (3) prohibitions against attempts to coerce adherence to standards, as opposed to voluntary use; and (4) bans on competitor discussion of competitively-sensitive subjects not relevant to the standards process (e.g., individual company strategies on pricing and marketing). Specific guidelines in each of these four categories are set forth below.

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C. Procedures Assuring the Integrity of the Standards-Setting Process

1. Anti-Competitive Conduct

No participant in the standards-setting process shall seek adoption or modification of a standard for the purpose of excluding products of competitors from the market or otherwise restraining competition.

2. Role of ACORD Staff and Competition Law Compliance Officer

It shall be the responsibility of the ACORD staff to evaluate all proposed standards and revision of standards to determine that they do not unreasonably exclude any product from the relevant market and do not have an improper anti-competitive purpose. The staff shall refer any suspected instances of anti-competitive exclusion or similar conduct to the competition law compliance officer, who shall make further inquiry and consult legal counsel as necessary. Additionally, any participant in the standards-setting process or other affected party may bring any complaint of anti-competitive conduct to the competition law compliance officer. The competition law compliance officer shall recommend any disciplinary action to the ACORD Board of Directors.

3. Disciplinary Action

Any party that is the subject of such recommendations for disciplinary action may appear before the competition law compliance officer to present its views, as may any complaining party. Upon the recommendation of the competition law compliance officer, the ACORD Board of Directors may take any appropriate action, including but not limited to: (a) suspension of a party from further participation in the standards-setting process; (b) suspension of voting rights; (c) referral of the matter to appropriate competition law enforcement agencies; or (d) modification of final or proposed standards to cure the effects of any anti-competitive conduct. No member of the ACORD Board of Directors employed by or affiliated with any party which is the subject of disciplinary recommendations, or which is a complaining party, shall participate in the applicable proceedings.

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Approval of standards shall be subject to the voting requirements set forth in the Standards Program General Guidelines & Procedures. No company shall have more than one vote regardless of how many individuals represent it at a given meeting. Those voting against a proposed standard shall have the opportunity to submit dissenting views in writing. Such views shall be made available to all participants eligible to vote.

5. Conflicts of Interest

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The competition law compliance officer shall conduct investigations where necessary to determine whether there is a conflict of interest that should disqualify an individual from service on any Program Advisory Council or a failure to make disclosures required of members of Standards Project Groups. Any complaint concerning conflicts of interest or failures to disclose may be brought to the attention of the competition law compliance officer. The competition law compliance officer shall make any appropriate recommendations to the Board of Directors concerning conflicts of interest or failures to disclose, including recommendations of appropriate disciplinary action (e.g. removal from office) or requiring additional disclosures. No member of the ACORD Board of Directors that is the subject of such a recommendation shall vote on the proposed action.

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(2) Internal underwriting standards or guidelines, including favored or disfavored classes of customers;

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Suppliers of Products and Services to Insurance Industry Customers

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(3) Current or future plans concerning production or output;

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