

# Constant Change, Consistent Compliance

## The Forms Management Challenge for Property & Casualty Insurers

January 2010

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# Table of Contents

<b>Executive Summary</b> .....	<b>1</b>
Effective forms management is an essential insurance business capability.....	1
<b>The symptoms of a broken forms management process are identifiable.</b> .....	<b>2</b>
Symptom #1: Consumer complaints can be an indicator of poor forms management practices. ...	2
Symptom #2: Hold-ups in new policy forms preparation delay new product releases to market. .	2
Symptom #3: Market conduct exams include reviews of policy forms. ....	3
Symptom #4: Selection/Rejection form inaccuracies create claims exposures.....	3
Symptom #5: Out-of-date, state-mandated forms lead to forms rejections and claims processing inefficiencies. ....	3
Symptom #6: Complex forms conversions and tagging inefficiencies may lead to production errors. ....	3
<b>Effective forms management is not easy.</b> .....	<b>4</b>
Forms activity levels are many and varied. ....	4
In-house forms acquisition activities require significant time and effort. ....	6
Optical Character Recognition (OCR) forms technology presents a whole new compliance challenge. ....	7
Insurers must assess required forms integration time and effort, and assemble the requisite skilled staff to incorporate system changes. ....	7
Production capacity must be able to handle large volumes of forms and customization needs. ...	7
<b>Insurers can take positive steps to improve forms management effectiveness..</b>	<b>8</b>

## Executive Summary

Forms are the chief drivers of every property & casualty insurer's underwriting and claims operations. But those forms and their usages are constantly subject to change in response to legislative and regulatory actions. When insurers fail to manage those changes effectively, they can find themselves subject to significant compliance risk.

Insurers can easily find symptoms of flaws in their forms management processes. Most frequently, symptoms arise from operational shortcomings stemming commonly from lack of human resources and/or slow or incomplete technology integration. Successful insurers will allocate sufficient (and sufficiently skilled) staff to forms management in order to handle the volume of changes. These individuals will be nimble and highly responsive, always implementing changes to their forms libraries in a timely, accurate, and compliant manner.

This whitepaper discusses the most common symptoms of forms management process breakdowns, and outlines the steps insurers must take to maintain constant forms compliance and mitigate their legal and financial risk.

### **Effective forms management is an essential insurance business capability.**

Accurate, approved forms are vital to the compliance of an insurer's underwriting and claims operations. For instance:

- Regulated forms are often a source of requirements for defining the information that needs to be gathered during the policy application process.
- Production of policies using correct forms and endorsements— a critical business function— is entirely dependent upon an insurer's forms management capabilities.
- A vast array of consumer disclosure requirements are rooted in regulated forms.
- Out-of-date forms can compromise timely claim handling requirements, create inefficiencies due to staff rework, and otherwise expose an insurer to future market conduct penalties.

Insurers must cope daily with a daunting number of different forms. Breakdowns in the forms management process can leave an insurer at risk for coverage issues and possible regulatory enforcement actions.

## The symptoms of a broken forms management process are identifiable.

### **Symptom #1: Consumer complaints can be an indicator of poor forms management practices.**

To the extent that customer complaints to insurers or insurance regulatory agencies indicate forms issues, insurers have an effective barometer of forms effectiveness. For instance, if an insurer supplies outdated forms to workers' compensation claimants, then workers' compensation commissions may reject those and require that the updated form be used. A claimant may be required to take additional action to ensure that the claim is proceeding, with resulting negative feedback to the insurer. Those forms rejections would be the "red flags" indicating a failed step in one or more of the insurer's forms management processes.

Looking at the auto line of business, non-compliant auto insurance ID cards will fail to satisfy law enforcement officers. As a result, drivers may face possible fines for ID card violations—and may also file complaints with their insurers. Additionally, many motor carrier bodily injury, property damage, and cargo forms are determined by the federal government through the Federal Motor Carrier Safety Administration (FMCSA). When a FMCSA form is modified, the lead time to implement a new version is very short, and the frequency with which changes occur is quite high. For example, in 2009 alone, 11 of 13 FMCSA forms were revised. Once the new form is in effect, the agency will accept only the revised forms and reject all prior versions. An insurer that fails to deliver current FMCSA certificates of insurance will most definitely experience a spike in complaints as submissions are rejected.

### **Symptom #2: Hold-ups in new policy forms preparation delay new product releases to market.**

As an insurer prepares to release new products to market, it must also prepare all required forms:

- Proprietary forms need to be filed with, and approved by, the applicable regulatory agencies.
- Bureau forms adoptions need to be aligned with the reference filing authorizations on file with the states.
- Current applications and other supporting forms associated with the lines of business must be available in the format prescribed by the insurer's policy issuance system.

Delays along the critical path for any of these forms, combination of forms, or process steps, could result in significant revenue loss as the originally projected in-market date is missed by weeks or even months.

### **Symptom #3: Market conduct exams include reviews of policy forms.**

Across product lines, a key area generally reviewed by state market conduct examiners is that of policy forms in use by insurers. In fact, for those states requiring approval, failure by insurers to limit policy form use to only those forms filed with, and approved by, the insurance regulatory agency has consistently been among the top ten most criticized areas over the past few years.

**Insurer noncompliance can result in market conduct fines and penalties.** Additionally, noncompliance can potentially expose the insurer to increased coverage risks depending on which provisions were either omitted from, or included in, the actual policies delivered to its insureds. A recent Virginia market conduct exam found 45 instances of violations related to forms management challenges, including forms language issues and unapproved form versions.

### **Symptom #4: Selection/Rejection form inaccuracies create claims exposures.**

Uninsured/Underinsured Motorists coverage forms (often referred to as “Selection/Rejection” forms) are a key element of personal and commercial auto policies. They are required in many states with mandates to offer UM/UIM coverage in writing to applicants and sometimes at renewal. If an insurer fails to comply with the proper written rejection requirements at either application or renewal, it can be at considerable risk for significant payouts when it cannot prove UM/UIM coverage rejection by policyholders filing claims.

(It is notable that in 2009, nine of the UM/UIM selection/rejection forms required in 44 jurisdictions—more than 20 percent—have been new or revised forms. All of these revisions were driven by legislative or regulatory activity, the key driver of forms changes in this compliance area.)

### **Symptom #5: Out-of-date, state-mandated forms lead to forms rejections and claims processing inefficiencies.**

Out-of-date forms submitted to state regulatory agencies, such as workers’ compensation commissions, will be rejected. Such rejections lead to inefficiencies in an insurer’s claims processing systems.

Among the most commonly rejected forms are first report of injury (FROI) forms, which effectively start the claims process. When insurers notice commission rejections and resubmissions, out-of-date forms most likely are playing a leading role.

### **Symptom #6: Complex forms conversions and tagging inefficiencies may lead to production errors.**

Whether an insurer uses proprietary forms or subscribes to one or more of the licensed advisory organizations that develop forms and endorsements, insurers must have established operating requirements regarding paper or electronic production.

**More and more insurers have phased in electronic forms production.** In order to integrate proprietary or advisory organization forms into a policy issuance system, the insurer needs to know the system's required format for policy forms, endorsements, and supporting forms. Compatible formats vary and can be unique to third-party providers and/or in-house policy issuance systems. Advisory organization forms are most frequently made available to subscribers in Word and/or PDF.

However, an insurer's system may require policy form conversion to a less common and potentially unavailable format. As a result, the insurer may face additional costs associated with document conversion, by either in-house staff or third-party resources. Building forms libraries in such "alternative" formats calls for specialized forms design expertise. Significant industry expertise is also vital so that regulatory requirements, such as minimum type sizes, are not compromised in converting from one format to another (some conversions may result in a noncompliant, full-point-size reduction).

**Claims form conversions present similar challenges.** Specialized forms design expertise is also required to consistently reproduce claims forms in either standard or alternative formats, retaining the requisite font size, and inserting any required tagging. Omissions of text or failure to adhere to font and type requirements can occur in the conversion, layout, or tagging process. While typographical errors can result in regulatory enforcement action, tagging errors will produce bad data, leading to downstream production errors and possible delays in claims processing. Additional enforcement actions may result.

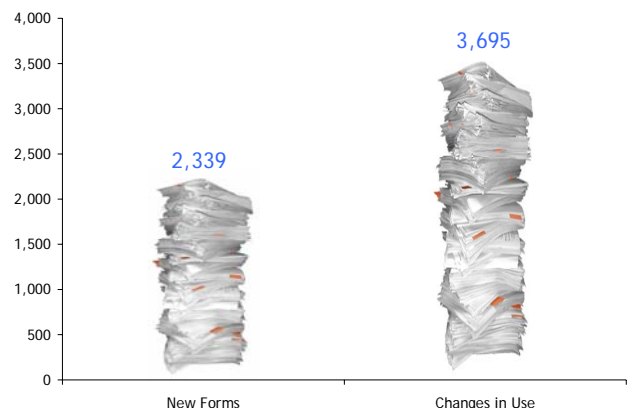
## Effective forms management is not easy.

The scale of regulatory and legislative activity, advances in technology, human resources issues, and the nuts-and-bolts of form design and production are all pieces of the forms management puzzle to be managed.

## Forms activity levels are many and varied.

On an annual basis, thousands of advisory organization forms are either created or revised. Faced with such numbers, it's a time-consuming, detail-heavy task to monitor circulars and regulatory changes for form revisions and changes in the "state usage" of the forms.

Graph 1 illustrates advisory organization form revisions and changes in the use of forms across the states for 2009. There were more than 6,000 overall such form changes in 2009, comprising 2,339 form revisions and nearly 3,695 usage changes. These changes affect all major lines of business.

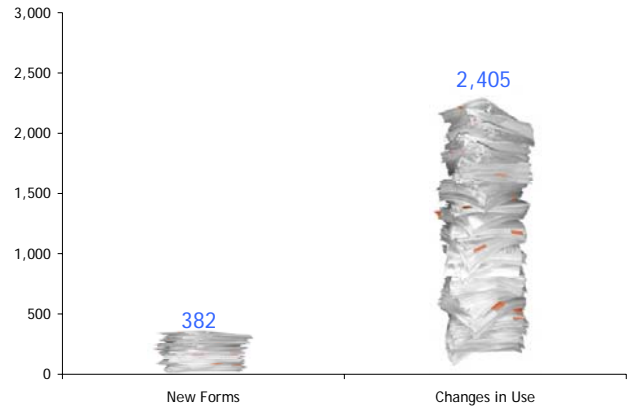


Graph 1: 2009 Advisory Organization Forms

Insurers that fail to identify all changes could find themselves using outdated forms in some states or using a new but unapproved version in other states.

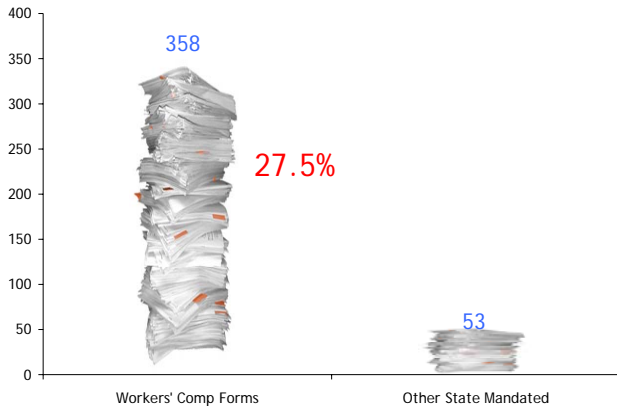
Looking specifically at forms activity for a leading advisory organization for 21 lines of business over this same time period, we can see in graph 2 that there were 382 new forms and more than 2,400 forms usage changes.

Claims forms management presents difficulties and challenges that are simultaneously similar to those of policy forms and endorsements management, yet very much unique.



Graph 2: Illustration of Advisory Organization 2009 Activity

All lines of business require claims forms. Some, like workers' compensation claims forms and no-fault requirements are state-mandated. Others are unique to particular insurers and usually developed in-house to facilitate the claims process: acknowledgment of claim forms, proof of loss forms, investigatory pending forms, and payment forms. These adjunct claims forms may need revision throughout the year in response to fraud warning changes and other regulatory directives that do not result in a state-mandated form but nevertheless require compliance. Reviewing the universe of all claims forms and adjuster templates, we have identified approximately 1,300 forms as being consistently used in the property and casualty claims process.



Graph 3: 2009 State Mandated Forms Changes

As the line of business that typically requires the most state-mandated forms, workers' compensation presents an exceptional forms management challenge, particularly where form changes are concerned. Graph 3 compares the overall workers' compensation forms activity level with activity associated with other state-mandated forms changes.

Changes most often stem from legislative and regulatory activity, which is frequent and ongoing. In addition, state workers' compensation regulatory agencies are involved in the claims process down to the smallest details, so it is no surprise that the most frequently changed forms are workers' compensation forms.

Looking more closely at changes to workers' compensation claim forms, we have determined that slightly more than 350 had been revised during 2009, or close to 28 percent of all claims forms for all lines of business. As one example, in August 2009 nearly 50 New York workers' compensation forms were revised, with the most common elements being a change in the name of the Board's chair and a change of address for the Buffalo processing center. In another instance, certain doctor's report forms experienced some additional substantive changes in accordance with a Board release.

Monitoring for these types of changes allows insurers to remain in compliance and avoid rejection of their forms by the state agencies. Such monitoring is a critical function for insurers to consider and implement in their forms management process. Yet it is a daunting task in the face of such volume of forms and changes in use.

### **In-house forms acquisition activities require significant time and effort.**

With insights into the activity levels described above, insurers can better assess what they need to maintain their forms acquisition process. To begin, acquiring forms and forms changes is clearly difficult, given the sheer number of independent advisory organization, state, and federal sources that promulgate or provide forms.

Faced with multiple forms sources, insurers must:

- identify all sources that are either required or relevant to their lines of business
- monitor those sources for form changes in response to regulatory activity
- determine additional or alternate sources
- achieve document format requirements compatible with regulatory dictates, as well as with applicable processing systems
- integrate new and revised forms with internal platforms

Such extensive and ongoing review requires dedicated staff personnel who understand the forms process. Reviewing just one advisory organization's activities for 2009 reveals that new forms created, as well as changes in the state usage of those forms, were obtained only through diligent and detailed analyses of more than 4,000 advisory organization circulars. Those circulars covered topics including adopted forms, filed forms, and related content.

From a practical perspective, insurers must often manage forms produced by multiple advisory organizations, as well as state bureaus such as HIB, the Virginia Bureau of Insurance, and the North Carolina Rate Bureau, which may also affect an insurer's business and require diligent monitoring.

Putting aside the various independent and state bureaus noted above, the identification process for non-policy forms currently involves:

- approximately 70 Web pages just for workers' compensation claim and miscellaneous forms
- 52 Web pages for possible motor vehicle ID card, salvage, or title forms
- 60 Web pages for insurance regulatory agency changes such as no-fault forms and required fraud warnings

To further complicate the process, states may add or replace web pages at any time, requiring great diligence in monitoring by insurers.

## **Optical Character Recognition (OCR) forms technology presents a whole new compliance challenge.**

OCR forms represent the leading edge of technological change affecting workers' compensation claim forms. Their usage in California and Pennsylvania illustrate some of the challenges.

California required the use of OCR forms with the creation of the Division of Workers' Compensation - Electronic Adjudication Management System (EAMS) in 2008. In 2009, the Division had issued 30 OCR forms, all with very specific requirements for testing at the Division's offices to determine their acceptability in its claims procedures. In Pennsylvania, which has a longer history with OCR forms, 12 OCR forms currently require approval from the Workers' Compensation Bureau prior to use by insurers.

While OCR forms reflect a small percentage of the overall forms universe at present, they present very real and considerable compliance concerns for insurers. Most specifically, the production of OCR forms requires advanced graphics skill sets in order to ensure proper alignment of state text and fill-in areas for accurate reading by the OCR software.

## **Insurers must assess required forms integration time and effort, and assemble the requisite skilled staff to incorporate system changes.**

The property & casualty forms environment is always dynamic, never static. Forms integration staff must continually perform their tasks in a timely, complete, and accurate manner in order to ensure forms compliance. Failure to do so can jeopardize new product development and result in possible claims exposure and market conduct fines.

## **Production capacity must be able to handle large volumes of forms and customization needs.**

Additionally, insurers must be able to ramp up production of compliant forms on demand. Rolling out new products often requires substantial effort not only in acquiring bureau forms and developing proprietary forms, but also in conversion of forms to a specific format. A key to the on-time success of product releases is quick and accurate turnaround from graphics staff. Likewise, when massive revisions to a state's workers' compensation forms are required, an insurer should be able to rely on turnkey solutions that easily mitigate non-compliance due to out-of-date forms.

## Insurers can take positive steps to improve forms management effectiveness.

Keys to successful and effective forms management include:

- efficient forms monitoring that leads to consistent, timely, and accurate acquisition
- high-level forms conversion graphics capabilities
- sufficient graphics capacity to handle increased product development and regulatory change demands for all types of forms
- compliant underwriting support for forms withstanding regulator inquiry and judicial scrutiny
- a reliable source of compliant claim forms that are compatible with claims processing systems and meet applicable regulatory requirements

The optimal solution to the forms challenges faced by property & casualty insurers would take into account the drivers of changes and the need for turnkey solutions to “stay on top” of forms.

The components of such a solution would include:

- committed and dedicated staff, fully conversant in the requisite types of forms and sources
- sufficient and consistent expertise and bandwidth to support alternate formats
- regulation and legislation-knowledgeable personnel who can reliably develop compliant forms
- an automated mechanism for notification of forms related requirement changes

Faced with these needs, insurers can benefit significantly from relationships with qualified third parties who fully understand the property & casualty forms regulatory environment. These suppliers must possess the requisite skill set and bandwidth to accommodate conversion needs and timeframes so that insurers’ business needs are met and adverse consequences are mitigated.

Wolters Kluwer Financial Services is a leading provider of compliant forms solutions for the insurance industry. Combining a wealth of industry knowledge with innovative technology, the company offers a wide range of products that help insurers meet and exceed their forms compliance objectives. For example, our multi-formatted composition services produce not only forms that are compatible with policy issuance systems, but also stand-alone printed forms. We also provide desktop solutions that deliver compliant forms within a claims or UM/UIM selection/rejection module.

For more information on how Wolters Kluwer Financial Services can help, please visit [www.Insurance.WoltersKluwerFS.com](http://www.Insurance.WoltersKluwerFS.com), call (800) 481.1522 or email [CustomerCare@WoltersKluwer.com](mailto:CustomerCare@WoltersKluwer.com).

