

5. (2 points)

a. (1 point)

Describe each of the following:

- i. The Clayton Act
- ii. The Robinson-Patman Act

b. (0.75 point)

Fully describe how the McCarran-Ferguson Act addresses the application of federal laws to the "business of insurance."

c. (0.25 point)

In 1947, the NAIC developed the *Act Relating to Unfair Methods of Competition and Unfair Deceptive Acts and Practices in the Business of Insurance*. Briefly describe the motivation for this model law.

SAMPLE ANSWERS AND EXAMINER'S REPORT

Part c

Candidates were expected to identify two recommendations of the NAIC immediately following the SEUA decision.

Common mistakes included:

- Listing any of the model laws developed by the NAIC. These were drafted after the McCarran-Ferguson Act and not immediately after the SEUA decision
- Stating that NAIC recommended overturning the SEUA decision, without providing any additional details (such as overturning the decision in order to return regulation back to the states)
- Recommending that the Sherman Act and/or Clayton Act be amended to *exclude* insurance, as the NAIC only recommended to amend these acts to allow for cooperative rate setting

SPRING 2019 EXAM 6US, QUESTION 5

TOTAL POINT VALUE: 2

LEARNING OBJECTIVE: A4

SAMPLE ANSWERS

Part a: 1 point

Sample responses for part (i)

- Identifies and made illegal activities that lessened competition and created monopoly power.
- Prohibits anti-competitive behavior
- Identifies and made illegal activities that lessened competition

Sample responses for part (ii)

- Prohibits price discrimination unless differences arise from operational costs
- Required that differences in prices be based on differences in operational costs.

Part b: 0.75 point

- Federal law applies to “business of insurance” if there is no state law regulating the business referenced in a federal law.
- However, Sherman act continues to apply to antitrust activities (or boycott, intimidation, coercion)
- Any federal law specific to the business of insurance supersedes any state regulation in the same area

Part c: 0.25 point

Sample 1

- The motivation for the model law was to permit state regulation to preempt the FTC act.

Sample 2

- Goal was to identify methods of unfair competition or unfair trade practices in state laws to reduce the amount of federal intervention.

SAMPLE ANSWERS AND EXAMINER'S REPORT

EXAMINER'S REPORT	
Candidates were expected to demonstrate knowledge of various laws / regulations of the insurance industry.	
Part a	
Candidates were expected to demonstrate knowledge of the Clayton Act and the Robinson-Patman Act.	
Common mistakes included:	
<ul style="list-style-type: none"> • Not tying the Clayton Act to either anti-competitive behavior or monopolies, as this was the main motivation of the act. • Stating that the Robinson-Patman Act prevents tie-in sales. This was part of the Clayton Act. 	
Part b	
Candidates were expected to describe how the McCarran-Ferguson Act regulated federal laws related to insurance.	
Common mistakes included:	
<ul style="list-style-type: none"> • Describing the “business of insurance” rather than how the laws applied to the business of insurance. • Stating that the act “returned regulation to the states”; the act returned the option of regulation to the state assuming a state law was in place to regulate. 	
Part c	
Candidates were expected to describe the motivation for the NAIC’s <i>Act Relating to Unfair Methods of Competition and Unfair Deceptive Acts and Practices in the Business of Insurance</i> .	
A common mistake was discussing the ways in which the model law would regulate markets, rather than the motivation for the act.	

SPRING 2019 EXAM 6US, QUESTION 6	
TOTAL POINT VALUE: 2.75	LEARNING OBJECTIVES: B1, B2, B3
SAMPLE ANSWERS	
Part a: 1.5 points	
<u>Sample responses for part (i):</u>	
<ul style="list-style-type: none"> • To protect the policyholder when their insurer goes insolvent - claims and some UEP are paid • Guaranty funds were incepted because insurers would go insolvent and leave policyholders without coverage and without reimbursement for claims and unearned premiums • Created to protect policyholders against insurer insolvencies. Guaranty funds provide claim coverage and partial refund of unearned premium when an insurer goes bankrupt. 	