July 10, 2019

Director Bruce R. Ramge, Chair
Russell Hamblen, Vice Chair
Market Conduct Examination Standards (D) Working Group
NAIC Central Office
1100 Walnut, Suite 1500
Kansas City, MO 64106-2197

Attn: Petra Wallace, Market Regulation Specialist

VIA Electronic Mail: pwallace@naic.org

RE: Travel Insurance Exam Standards

Dear Director Ramge and Mr. Hamblen:

The American Property Casualty Insurance Association (APCIA)\(^1\) appreciates the opportunity to provide feedback on the draft Travel Insurance Exam Standards (Standards) for the Market Regulation Handbook (Handbook). The Travel Insurance Model Law (Model Law) establishes consistent and predictable regulation for the travel insurance industry in a manner that protects consumers and promotes the innovation and growth of this beneficial product. We look forward to working with the Market Conduct Examination Standards (D) Working Group (Working Group) to incorporate those Model Law provisions in the Handbook.

**Introduction**

As a threshold matter, we note that the Model Law was adopted only at the end of 2018 and, to our knowledge, it has only been adopted in seven states. For this reason, we ask the Working Group to continue to develop the Standards but delay their incorporation into the Handbook until a critical mass has adopted the Model. Alternatively, the Working Group should strengthen the disclaimer language to emphasize the Standard should only be used if the state has enacted the Travel Insurance Model Law (Model Law). We respectfully recommend the following amendment:

**IMPORTANT NOTE:** The standards set forth in this chapter are based on established procedures and/or NAIC models, not on the laws and regulations of any specific jurisdiction. This handbook is a guide to assist examiners in the examination process. Since it is based on NAIC models, use of the handbook should be adapted to reflect each state’s own laws and regulations with appropriate consideration for any bulletins, audit procedures, examination scope and the priorities of examination. **Additionally, the guidance that follows should only be used in states that have enacted the NAIC Travel Insurance Model Law or legislation which is substantially similar to the Model.** Further

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\(^1\) Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, protecting families, communities, and businesses in the U.S. and across the globe.
important information on this and how to use this handbook is included in Chapter 1—Introduction.

**Travel Retailer**

APCIA agrees with the Drafting Note’s suggestion that the Working Group will want to consider how to address travel retailers’ business operations. For instance, the Standards should emphasize that the examiner seek the requested information from the travel insurer or limited lines travel insurance producer first, and only request information from the travel retailer if it is unable to obtain the information from the insurer or producer, entities over which the Department clearly has jurisdiction. While the Drafting Note implies that a Department may impose penalties on a travel retailer, it certainly does not provide sweeping, or any, examination authority over a travel retailer, so the jurisdiction questions will need to be considered in the context of the overall Model Law and the ability of a Department to obtain the needed information from an entity over which it clearly has jurisdiction (i.e., a travel insurer or limited lines travel insurance producer). For example, Section 4 already provides that the limited lines travel insurance producer is responsible for the acts of the travel retailer and must use reasonable means to ensure compliance by the travel retailer with the Model Law. This provides sufficient means for the examiner to ensure compliance by looking to the limited lines travel insurance producer (or insurer, where appropriate).

**Marketing and Sales**

**Standard 1**

This Standard and review procedures and criteria should be narrowed as Sections 4(C) and 7 are not as broad as the Standard implies. For example, the review procedures provide “ensure the limited lines travel insurance producer, travel insurer, and travel retailer maintains, at its home or principal office, a complete file containing a specimen copy of every printed, published or prepared advertisement of its travel insurance programs and published or prepared advertisements of its individual, blanket and group travel insurance policies.” The Model Law does not contain such detailed requirements.

**Standard 2**

This Standard should also reference cancellation fee waiver consistent with the Model Law language.

**Standard 5**

The Working Group should consider adding a review procedure and criteria that reflects the ability of the consumer to waive the pre-existing condition exclusion under certain circumstances. Additionally, APCIA recommends “Determine the completeness of the pre-existing condition and definition in the contract” be deleted. This concept is sufficiently covered in the preceding sentence.

**Standard 6**

For consistency, the review procedures/criteria should make clear that the examiner will seek this information from the limited lines travel insurance producer.

**Standards 7, 8 and 9**

These Standards are mostly duplicative and should be combined into one standard. Further, a merged Standard should be flexible and not demand that every insurer create product-specific training. Arguably, this requirement is too specific for the broad requirement of the Model Law to have “instructions on the types of insurance offered.” Similarly, the review standards in the 3rd paragraph of Standard 7 are beyond the provisions of the Model Law.

**Standard 11**

While APCIA agrees with the content of this standard, we note that there are no parameters on what is to be reviewed and under what conditions. Accordingly, if appropriate and consistent with the Handbook, we suggest adding some review procedures and criteria, such as “review a sampling of marketing materials and policies to confirm that customers were not offered or sold a policy through negative option or opt out.”
**Standard 12**
The requirement that the identity of the payor must be prominently disclosed does not appear in the Model Law. We suggest that this be removed from the review procedures and criteria.

**Producer Licensing**

**Standard 1**
As discussed above, to avoid jurisdiction questions pertaining to travel retailers, the examiners should request proof from the insurer or limited lines travel insurance producer that the actual information was provided/made available. If neither the insurer nor limited lines travel insurance producer is able to make such a showing, then the regulator could request proof from the travel retailer.

**Policyholder Service**

**Standard 1**
This Standard should be revised to provide more specificity. APCIA believes the Standard is seeking information about whether the: (1) fulfillment materials and information required in Section 4(B)(1)(a)-(d) were provided “as soon as practicable” following the purchase of a travel protection plan; and (2) policy documentation disclosed whether the travel insurance is primary or secondary to other coverage. If these are the two specific items to be examined, it is worth considering amending the Standard to focus on these specific items.

**Underwriting and Rating**

**Standard 2**
APCIA agrees with the Drafting Note that this standard is unnecessary and should be deleted. There are instances where travel insurance is filed as an accident and health line of insurance, and each state should be able to handle that instance accordingly.

**Claims**

**Standard 1**
Since providing illusory coverage is a difficult proposition to prove, it is recommended that an examination standard be confined to: (i) reviewing a sample set of policies to confirm that benefits are being offered under the policies issued and a payment for a claim could have been made; and (ii) reviewing a sampling of denied claims to confirm that denial was appropriate based on the policy language.

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Thank you for the opportunity to comment. If you have any questions or would like to discuss any of these recommendations further, please let us know.

Respectfully submitted,

Angela Gleason and Lisa Brown