



June 11, 2021

Teresa Cooper
Market Analysis Manager
NAIC Central Office
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

VIA Electronic Mail: tcooper@naic.org; Rebecca.Rebholz@wisconsin.gov

RE: MCAS– Proposed Expansion of Lawsuit Data to be Collected for Private Passenger Auto and Homeowners Insurance

Dear Ms. Cooper:

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to provide comments on proposed new data elements for the collection of lawsuit-related information for both the private passenger automobile (PPA) and homeowners (HO) insurance Market Conduct Annual Statement (MCAS), and proposed definitions and data elements related to digital claims settlement.

Delay Collection of New Lawsuit Data

The changes to the lawsuit definition and related data elements exposed for comment June 3, 2021 (allowing 8 days for full review and development of the comments) were characterized as “updates ... to provide needed information for insurers to submit data as approved by the Working Group prior to June 1st.” APCIA strongly disagrees with this assertion and opposes the consideration of these amended definitions and additional data elements for the collection of 2022 experience data in 2023. Respectfully, the “updates” proposed are not merely clarifying in nature – they are substantive and worthy of further consideration and deliberation.

The NAIC should follow established and publicly available “Market Conduct Annual Statement Data Element Revision Process,” which provides, “Changes that have been adopted by the MCAS Blanks WG prior to June 1 and subsequently adopted by the Market Regulation and Consumer Affairs (D) Committee by August 1 and by the NAIC Plenary by December 31 of the same year will become effective for the following year’s experience reporting.” The amended lawsuit definition and related data elements were not exposed for comment prior to the June 1 deadline, and by definition were not adopted by the MCAS Blanks WG by that date. APCIA respectfully requests the MCAS Blanks Working Group begin robust discussion and debate on the lawsuit exposure, but, in accordance with NAIC’s own

¹ The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions-protecting families, communities, and businesses in the U.S. and across the globe.

process, do so with the understanding that any changes subsequently approved by the working group and the D Committee would be applicable to 2023 experience data reported in 2024.

In addition to allowing time for a more robust and deliberate discussion of the proposed lawsuit changes, a delay of a year in collecting that data will afford insurers more time to assess their internal systems and make programming changes, or changes to internal processes, to ensure they are accurately reporting the data necessary.

Definition of “Lawsuit”

Specific to the substance of the exposed proposal, APCIA believes the proposed definition of “lawsuit” needs additional clarification on the inclusion of arbitrations when reporting the requested data. The proposed definition refers to “action[s] brought in a court of law.” The associated “Calculation Clarification” instructs insurers to “include arbitration cases.” Arbitration is a form of alternative dispute resolution and is not an action brought in a court of law. APCIA’s initial recommendation would be to remove arbitration from the definition altogether. Should that not align with regulatory needs for market conduct analysis, APCIA would request the language of the “Calculation Clarification” requiring inclusion of arbitration cases be amended to limit the reporting by expressly excluding intercompany arbitrations, mutually agreed-upon arbitrations, appraisals, and mediations.

Digital Claims

APCIA appreciates the willingness of the working group to continue working on the digital claims proposals for HO and PPA, rather than postponing further discussions until early 2022. Industry is best equipped to provide requested data to regulators when given the most generous possible lead time to develop internal procedures and make necessary systems changes required to ensure complete and accurate data is indeed reported.

Thank you for the opportunity to provide comments. If you have any questions or would like to discuss any of our comments further, please let us know.

Respectfully Submitted,



Lisa Brown
Sr. Director, Market Conduct and Counsel