



October 19, 2020

Rebecca Rebholz
Chair, NAIC Market Conduct Annual Statement Blanks (D) Working Group
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Dear Chairwoman Rebholz:

The U.S. Travel Insurance Association (“USTiA”)¹ appreciates the opportunity to provide comments to the NAIC Market Conduct Annual Statement Blanks (D) Working Group (the “Working Group”) with regard to developing a template for travel insurance market conduct annual statement (“MCAS”) reporting. The USTiA has attached for your consideration a proposed reporting template (the “Proposed MCAS Blank”) that is based on templates used for other MCAS reporting lines. We believe the Proposed MCAS Blank aligns with the purposes behind MCAS reporting, is proportionate to the nature and relative size of the travel insurance industry, and will provide sufficient information to regulators on a discretionary product that is responsive to consumer market forces.

Proposed MCAS Blank

As can be seen in the attached template “Property & Casualty Market Conduct Annual Statement, Proposed Travel Insurance Data Call & Definitions,” the Proposed MCAS Blank is consistent with other MCAS blanks and the general purposes of MCAS reporting to provide a uniform system of collecting market-related information to help the states monitor the market conduct of companies.² The Proposed MCAS Blank has three (3) Schedules, thirty five (35) different questions, and multiple data points that will provide regulators with a robust view of a travel insurance company’s activities in their respective state and across the various states. The questions include subjects such as sales by policy type (individual, group or blanket policies),

¹ The US Travel Insurance Association is a national association of insurance carriers, third-party administrators, insurance agencies and related businesses involved in the development, administration and marketing of travel insurance and travel assistance products. The US Travel Insurance Association's mission is to foster ethical and professional standards of industry conduct, cultivate effective state and federal government relations, inform and assist members, and educate consumers.

² See, *The Market Conduct Annual Statement Comes of Age*, Randy A. Helder, NAIC and The Center for Insurance Policy and Research, January 2012, at 1, https://www.naic.org/cipr_newsletter_archive/vol2_mcas.htm. (“The goal of the MCAS project is to provide a uniform system of collecting market-related information to help the states monitor the market conduct of companies.”).

claims opened and closed with and without payment, litigation open and closed involving the company, numbers of policies written, cancellations, premium, etc. These data elements are consistent with the MCAS blanks for other lines of insurance, including compulsory lines of insurance with much larger markets such as homeowners and auto.³ By comparison, there are fifty three (53) MCAS reporting data elements for private passenger auto.

MCAS Process

As noted, the general purpose of MCAS reporting is to provide regulators a uniform mechanism to collect market conduct-related information about all relevant companies to determine whether closer review of any individual company is warranted. The MCAS process is designed to provide state insurance regulators summary data, which provides a high-level overview of a specific company so that when compared year to year or with other companies, regulators may spot trends, anomalies, and other issues that may warrant more detailed inquiry.⁴ Typically, market analysts begin with the entire marketplace of companies in a state (through the MCAS reports) and then narrow down the number of companies for closer review. As the analysts move from one stage to the next, the regulators' data requests become more detailed as they seek to determine the reasons for the trend, anomaly or other issue.

The MCAS process has been described as important to both regulators and the industry as an effective means of deploying resources efficiently and where needed. A particular insurer will be subject to closer review only after an analyst has determined in her judgment that additional resources should be directed at that company out of the many companies reviewed. Departments then may determine if they need to review data for that company at the transactional level, such as through a continuum action, sending interrogatories or, at its most intense level, by initiating a market conduct investigation.⁵

As provided in the Proposed MCAS Blank, regulators will receive aggregate data on various activities through which the regulators will be able to identify trends and anomalies and other issues, and use such data to compare companies. If a regulator has additional questions for a particular company, then that regulator has the authority and tools for more detailed inquiry, in the next phases of the MCAS process.

Transaction-Level Reporting / CEJ Proposal

Requiring transactional level reporting at the initial MCAS reporting stage, as proposed by the Center for Economic Justice (the "CEJ Proposal") is unprecedented, and would essentially turn

³ Annual travel insurance premiums are roughly \$3.8 billion in an overall insurance industry of approximately \$2 trillion (less than 2/10 of 1% of insurance premiums).

⁴ *Id.* at 3.

⁵ See, *The Market Conduct Analysis Framework*, Randy A. Helder, NAIC and The Center for Insurance Policy and Research, October 2012, at 20-25 (discussing the MCAS process and baseline market analysis, Level 1, Level 2, and the Continuum process), https://www.naic.org/cipr_newsletter_archive/vol5_market_conduct_framework.pdf.

the MCAS pyramid upside down, by having the market conduct investigation/continuum stage be the *beginning* of the process, rather than the end.⁶ One commentator has stated that “[t]o attempt to bypass the second and third stages of the market analysis process would result in going down too many rabbit holes with a wasteful use of resources.”⁷

For example, the CEJ Proposal would require all travel insurers to provide two reports (one for sales and one for claims and lawsuits) with one hundred and twenty six (126) data elements at a transaction level (per policy, per claim) for millions of policies. Such transaction level reporting would essentially subject every travel insurance company to an annual market conduct examination through the MCAS process, imposing a significant economic and resource burden on all travel insurance companies, before any state regulatory analyst has concluded a more detailed review of any single company is warranted.

Conclusion

Attached is a Proposed MCAS Blank that the UStiA and its members believe is consistent with blanks for other MCAS lines and represents a reasonable approach for travel insurance MCAS reporting. We respectfully request the Working Group consider this proposal for adoption, as providing regulators with aggregate information and data needed to begin the MCAS process, while imposing a similar burden on the travel insurance industry as for other MCAS reporting lines.

Thank you for your consideration of our comments. Please do not hesitate to contact me with any questions you may have.

Sincerely,



Michael Byrne
McDermott Will & Emery LLP
Counsel, U.S. Travel Insurance Association

⁶ *Id.* See the pyramid on page 20, which has at the top “Baseline-MAPT” followed by “Level 1—MARS,” followed by “Level 2—MARS,” and then “Continuum” at the bottom.

⁷ *Id.* at 23.