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John Haworth
Deputy – Company Supervision, Washington State Office of Insurance Commissioner
Chair, NAIC Market Analysis Procedures (D) Working Group
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Dear Chairman Haworth:

The United States Travel Insurance Association (UStiA)[1] appreciates the opportunity to provide comments to the NAIC Market Analysis Procedures (D) Working Group (Working Group) on proposed additional ratios for the travel insurance market conduct annual statement (Travel MCAS) (Proposal). We also very much appreciate our regular dialogue with members of the Working Group, the Travel Insurance Subject Matter Expert (SME) group and other interested parties.

UStiA respectfully requests the Working Group maintain the Travel MCAS Scorecard Ratios as recommended by the SME group and adopted by the Working Group on June 8, 2022 (Adopted Ratios), and reject the Proposal, for the following reasons:

- The Adopted Ratios are the result of extensive consideration and compromise.
- The Proposal's loss ratio will mislead and confuse potential consumers of travel insurance, a completely discretionary product.
- Regulators who may be interested in a specific company's loss ratios can obtain them from the Travel MCAS and/or rate filings, without making the aggregate loss ratio information public, as with other lines of business.
- Loss and lawsuit frequency ratios are not captured or provided for nearly all other MCAS reporting lines.
- Two of the items within the Proposal are not ratios and thus should not be included in MCAS Scorecard Ratios.

[1] UStiA is a national association of insurers, third party administrators, insurance producers and related businesses involved in the development, administration and marketing of travel insurance and travel assistance products. UStiA'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.

Background. The general purpose of MCAS reporting is to provide regulators a uniform mechanism to collect market conduct-related information about insurers to determine whether closer review of any individual insurer is warranted. The MCAS process is designed to provide state insurance regulators summary data for a high-level overview of a specific insurer so that when compared to prior years or other insurers, regulators can identify trends, anomalies or other issues that may warrant investigation. The MCAS process has been important to both regulators and the industry as an effective means of efficiently deploying resources.

1. The Adopted Ratios are the result of extensive deliberations and compromise. The Working Group exposed proposed Travel MCAS Scorecard Ratios for comment in November 2021. The SME group deliberated over several months during multiple conference calls before recommending the Adopted Ratios to the Working Group. The Proposal was offered the day before the Working Group approved the Adopted Ratios, and then raised again on a subsequent Working Group call. Any modifications or additions to the Adopted Ratios should occur only after regulators have experienced at least one year of MCAS reporting.

2. Loss ratios for travel insurance would confuse and mislead prospective purchasers of a completely discretionary product. As a general matter, a loss ratio, by itself, is not a reliable indicator of the market conduct of an insurer or the industry as a whole. The Adopted Ratios already include data regarding complaints, claim payments and lawsuits. These are reliable indicators for identifying market conduct trends and anomalies that may warrant further investigation by regulators. Without an accompanying trend or anomaly identified in any one or more of these other ratios, or the proper context as discussed below, we believe a loss ratio by itself is not relevant in assessing market conduct. For example, one regulator has suggested loss ratios are needed as an early indicator if an insurer is not paying covered claims to satisfy its contractual obligations, but if this were occurring it would be reflected in one or more of the Adopted Ratios or the additional data being collected already through MCAS. We also believe it is not appropriate to suggest to prospective travel insurance purchasers that an aggregate industry loss ratio is indicative of "consumer value".[2]

In addition, various factors distinguish travel insurance from other, traditional lines of insurance, and support excluding loss ratios from the Travel MCAS Scorecard Ratios. An insurer or industry loss ratio does not reflect these unique aspects of travel insurance. First, in addition to being a discretionary product, travel insurance is non-renewable and is available in many sales channels, including through aggregators, B2C websites, online travel agencies, airlines, cruise lines, and tour operators. Loss ratios also can vary significantly within travel insurance products depending on the breadth of distribution and types of products (e.g., ranging from cruise lines to extreme sport tours/risky trips). Additionally, since insurers have different distribution channels, an insurer primarily writing one demographic (e.g., extreme sports tours or cruises taken mostly

[2] At least two regulators have questioned the need for additional ratios on prior Working Group/SME group calls, and from prior discussions there does not appear to be a clear consensus around regulators' desire and need for loss ratios via the Travel MCAS Scorecard Ratios.

by wealthy, elderly passengers) for its business might have a much different loss ratio than another, making any comparisons difficult.

Second, nearly every other MCAS line involves a renewable/nearly automatically renewable or mandatory insurance purchase. Every travel insurance purchase, by contrast, is a choice to make a "new purchase," which we believe is the most reliable indicator of an insurer's market conduct and "consumer value", given the competitive market and alternative purchase channels for travel insurance.

Third, travel insurance is unlike traditional insurance lines in that expenses are higher for a lower dollar policy (travel insurance premium is typically 5-8% of the trip cost and usually well under $100 per policy), while fixed costs (employees, servicing, etc.) and other associated expenses must be paid regardless of the size of the premium. The claims tail for travel is also short, providing for little to no investment income, resulting in a need for a higher assumed underwriting profit.[3] The Proposal makes no mention of these unique travel insurance traits or how they could impact how loss ratios would be viewed in this context.

3. Regulators can already obtain loss ratios without also making industry aggregate loss ratio information public. Regulators who may be interested in the travel insurance loss ratio can access such information via the MCAS data elements without including loss ratios in the Travel MCAS Scorecard and thereby making the industry aggregate loss ratio public as the Proposal contemplates. It has been suggested that travel insurance loss ratios are necessary because travel insurance is not a separate annual financial statement line of business, in contrast to homeowners, private passenger auto and other traditional lines, and thus regulators do not currently have a means to calculate travel insurance loss ratios. The regulators who have expressed interest in loss ratios have stated they obtain loss ratios for such other lines by performing a simple calculation using the applicable data elements from insurer annual financial statements. However, regulators do not publish any information from such calculations for these other lines. The process for the regulators interested in travel insurance loss ratios should be no different than for the other lines, now that the premium data element is available from the Travel MCAS to compare against losses.

Regulators also review projected loss ratios in new rate filings and actual loss ratios in filings to modify existing rates. For example, one regulator has suggested loss ratios are needed to identify an early warning of potential rate increases, if loss ratios are too high. However, any such rate increases would be subject to prior regulatory review and approval in nearly all states. Otherwise, it is unclear what market conduct action regulators might take if an insurer were to

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[3] *See*, *Travel Insurance An Actuarial Perspective*, American Academy of Actuaries Travel Insurance Task Force, September 2018, https://www.actuary.org/sites/default/files/files/publications/TravelInsuranceMonograph_09052018.pdf, especially pages 17-19.

suffer higher than expected losses – prohibit the insurer from continuing to pay covered claims? Will the regulator proactively prepare, or suggest that the insurer file, for a proposed rate increase?

4. The Proposal deviates from established MCAS practice in use for traditional lines. The Adopted Ratios are consistent with the number and substance of other MCAS reporting lines, including lines that involve mandatory/quasi-compulsory consumer insurance purchases. There are ten (10) other MCAS reporting lines, nine (9) of which have no loss ratio in the Scorecard Ratios. Only the MCAS Scorecard Ratio for lender placed auto and home insurance (LPAH) includes a loss ratio. There is insufficient justification in the Proposal, and apparently insufficient regulator support, for singling out travel insurance loss ratios when such ratios are not provided for the other lines, and the only reporting line with a loss ratio is a non-discretionary product.

There are no other lines (out of the ten (10) including short-term limited duration) that have a lawsuit frequency ratio as included in the Proposal. Other lawsuit ratios include the following: (i) suits opened during the period to claims closed without payment (private passenger auto/homeowners); (ii) percentage of lawsuits closed with consideration for the consumer (long term care, disability income, private flood); (iii) LPAH has four (4) lawsuit ratios, none of which match the Proposal's "lawsuit frequency" ratio for travel; and (iv) several of the reporting lines (life, annuities, health, etc.) have no lawsuit ratios at all, and thus the Adopted Ratios already include a ratio similar to that in three (3) other MCAS reporting lines.

The Proposal's alternative lawsuit frequency ratio (Number of Lawsuits Opened During the Period / Average Number of Individual Insured under All policies Beginning of Period for all coverages and Number of Individual Policies and Certificates from Group Policies at End of Period for all coverages) is used in no other MCAS Scorecard Ratio. Only the LPAH Scorecard Ratios include a potentially similar ratio (#14). Accordingly, this additional ratio should also be rejected by the Working Group.

5. The Proposal's non-ratios do not belong in Scorecard Ratios. The intent of the Proposal in including "Direct Premium Written, Average Number of Insureds and Total Number of Claims" is unclear, as these are not ratios.

6. Confidentiality. The Proposal suggests a ratio be provided per insurer per state for regulators and "one ratio per state for the public." The scope and intent of this suggestion is not entirely clear to us. We therefore wish to clarify that no information that is not already required to be subject to public disclosure by applicable state law should be available to the public. State market conduct/market analysis confidentiality statutes should absolutely protect the information being provided by insurers in the MCAS as highly sensitive and competitive confidential information.

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Regulators will now be able to calculate travel insurance loss ratios without making public any information from such calculations, as we understand already occurs for other MCAS reporting lines, should they choose to do so.[4] Regulators may independently perform these calculations if they are interested in loss ratios for travel insurance, to avoid misleading and confusing prospective consumers by making the industry aggregate information public through the MCAS process, and to maintain consistency among the various MCAS Scorecard Ratios, especially given the discretionary nature and other unique aspects of travel insurance as compared with traditional lines. If regulators determine a travel insurance loss, lawsuit or other ratio is needed, such additional ratio may be considered at a later date, perhaps after there has been experience with Travel MCAS reporting.

UStiA respectfully requests the Working Group reject the Proposal and maintain the Adopted Ratios the Working Group approved in June. Thank you for considering our comments. Please do not hesitate to contact me with any questions.

Sincerely,

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

[4] For the reasons noted above, we do not think a majority of regulators believe that a company's overall loss ratio for travel insurance (which may cover multiple product lines and sales channels with dramatically varying loss ratios within those lines and channels) is useful information, and they believe they already have the information they need or will have it once the MCAS reports are submitted.