

Draft: 7/1/19

Market Conduct Examination Standards (D) Working Group  
Conference Call  
June 18, 2019

The Market Conduct Examination Standards (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met via conference call June 18, 2019. The following Working Group members participated: Bruce R. Ramage, Chair, (NE); Russell Hamblen, Vice Chair (KY); Melissa Grisham (AR); Maria Ailor and Sarah Borunda (AZ); Bruce Glaser and Damion Hughes (CO); Kurt Swan (CT); Frank Pyle (DE); Sarah Crittenden (GA); Mary Lou Moran (MA); Jill Huisken and Gloria Mason (MI); Paul Hanson (MN); Win Nickens (MO); Ralph Boeckman (NJ); Peggy Willard-Ross (NV); Rodney Beetch and Angela Dingus (OH); Landon Hubbard, Joel Sander and Shelly Scott (OK); Gary Jones (PA); Joy Morton, Rebecca Nichols and Yolanda Tennyson (VA); Jeanette Plitt (WA); and Barbara Belling, Diane Dambach, Sue Ezalarab, Darcy Paskey, Rebecca Rebolz and Mary Kay Rodriguez (WI).

1. Adopted its May 30 Minutes

The Working Group met May 30 and took the following action: 1) adopted its April 24 minutes; 2) adopted a new homeowners in force standardized data request; 3) adopted a new homeowners claims standardized data request; and 4) discussed new travel insurance-related examination standards, based upon the *Travel Insurance Model Act* (#632), for inclusion in the *Market Regulation Handbook* (Handbook).

Ms. Rebolz made a motion, seconded by Mr. Hanson, to adopt the Working Group's May 30 minutes (Attachment XXXXX). The motion passed unanimously.

2. Reviewed New Travel Insurance-Related Examination Standards for Inclusion in the Handbook

Director Ramage said that Ms. Nichols and Ms. Morton developed draft travel insurance-related examination standards and a high-level summary of the draft standards for the Working Group's review and discussion. Director Ramage said the documents were exposed May 22 for a public comment period ending June 24. Angela Gleason (American Property Casualty Insurance Association—APCIA) said a preliminary review of the draft by APCIA members identified the following areas that warrant further review: 1) further clarification is needed in Marketing and Sales exam standards 7, 8 and 9 regarding accident and health (A&H) filings that are required in some jurisdictions; 2) travel retailers; and 3) since Model #632 is not adopted in all states, Ms. Gleason suggested that language be added to the draft adding that the exam standard may not be applicable in all jurisdictions.

Ms. Gleason said that the APCIA will submit comments and suggested changes by July 10. LeeAnn Goheen (Steptoe & Johnson LLP) said she will also submit comments by that date, on behalf of the U.S. Travel Insurance Association (USTIA).

Director Ramage extended the comments due date to July 10 and asked that comments be submitted by that date, so they can be distributed prior to the Working Group's next call, which is scheduled for July 18. Director Ramage said NAIC staff will provide advance email notice of the Working Group's July 18 conference call.

3. Discussed Other Matters

Director Ramage welcomed Georgia's new representative, Ms. Crittenden, to the Working Group.

Having no further business, the Market Conduct Examination Standards (D) Working Group adjourned.

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## Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination

### 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. Further important information on this and how to use this handbook is included in Chapter 1—Introduction.

This chapter provides a format for conducting travel insurance company examinations. Procedures for conducting property/casualty insurance company examinations and other types of specialized examinations—such as third-party administrators and surplus lines brokers—may be found in separate chapters.

The examination of travel insurance operations may involve any review of one or a combination of the following business areas:

- A. Operations/Management
- B. Complaint Handling
- C. Marketing and Sales
- D. Producer Licensing
- E. Policyholder Service
- F. Underwriting and Rating
- G. Claims

When conducting an examination that reviews these areas, there are essential tests that should be completed. The tests are applied to determine if the company is meeting standards. Some standards may not be applicable to all jurisdictions. The standards may suggest other areas of review that may be appropriate on an individual state basis.

## **A. Operations/Management**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

### **1. Tests and Standards**

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**STANDARDS  
OPERATIONS/MANAGEMENT**

**Standard** [*None noted for this category*]

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

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## **B. Complaint Handling**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

### **1. Tests and Standards**

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**STANDARDS  
COMPLAINT HANDLING**

**Standard** [None noted for this category]

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Applicable complaint register(s)

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

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## **C. Marketing and Sales**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

### **1. Tests and Standards**

The marketing and sales review includes, but is not limited to, the following standards addressing various aspects of the marketing and sales function. The sequence of the standards listed here does not indicate priority of the standard.

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## STANDARDS MARKETING AND SALES

### **Standard 1 All advertising and sales materials comply with applicable statutes, rules and regulations.**

**Citation:** Model #632, Section 4 – Licensing and Registration, Subsection C:

Any Travel Retailer offering or disseminating Travel Insurance shall make available to prospective purchasers, brochures or other written materials that have been approved by the travel insurer. Such materials shall include information which, at a minimum: (1) Provides the identity and contact information of the insurer and the Limited Lines Travel Insurance Producer; (2) Explains that the purchase of Travel Insurance is not required in order to purchase any other product or service from the Travel Retailer; and (3) Explains that an unlicensed Travel Retailer is permitted to provide only general information about the insurance offered by the Travel Retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the Travel Retailer or to evaluate the adequacy of the customer's existing insurance coverage.

**Citation:** Model #632 – Section 7 – Sales Practices, Subsection C (1):

All documents provided to consumers prior to the purchase of travel insurance, including but not limited to sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

#### **Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ The travel insurer's approved brochures or other written materials used in offering or disseminating travel insurance to prospective purchasers.
- \_\_\_\_\_ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- \_\_\_\_\_ Producers' own advertising and sales materials, including travel retailers under the direction of a Limited Lines Travel Insurance Producer

#### **NAIC Model References**

*Travel Insurance Model Act (#632)*  
*Unfair Trade Practices Act (#880)*

#### **Review Procedures and Criteria**

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. *Drafting Note: The words "travel retailer" are bolded to emphasize that travel retailers are included in this review area. The Working Group will likely want to consider how deeply to delve into the travel retailers' business operations.*

Review advertising materials in conjunction with the appropriate policy form.



Materials should not:

- Misrepresent policy benefits, advantages or conditions by failing to disclose limitations, exclusions or reductions, or use terms or expressions that are misleading or ambiguous;
- Make false, deceptive or misleading statements or representations with respect to any person, company or organization in the conduct of insurance business;

Materials should:

- Clearly disclose name and address of insurer;
- If using a trade name, disclose the name of the insurer, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy;
- Prominently describe the type of policy being advertised;
- Indicate that the product being marketed is insurance;
- Comply with applicable statutes, rules and regulations;
- Identify the policy form that is being advertised, where appropriate;

Determine if the company approves producer sales materials and advertising.

Review the company and producer's websites with the following questions in mind:

- Does the website disclose who is selling/advertising/servicing for the website?
- Does the website disclose what is being sold or advertised?
- If required by statutes, rules or regulations, does the website reveal the physical location of the company/entity?
- Does the website reveal the jurisdictions where the advertised product is (or is not) approved, or use some other mechanism (including, but not limited to, identifying persons by geographic location) to accomplish an appropriate result?

For the review of Internet advertisements:

- Run an inquiry with the company's name;
- Review the company's home page;
- Research the ability to request more information about a particular product and verify the information provided is accurate; and
- Review the company's procedures related to producers' advertising on the Internet and ensure the company requires prior approval of the producer pages, if the company name is used.

**STANDARDS  
MARKETING AND SALES**

**Standard 2 The disclosures regarding combinations of travel insurance and non-insurance travel assistance services are compliant with applicable statutes, rules, and regulations.**

**Citation:** Model #632, Section 6 Travel Protection Plans:

Travel Protection Plans may be offered for one price for the combined features that the Travel Protection Plan offers in this state if:

The Travel Protection Plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and

The Fulfillment Materials: (1) Describe and delineate the Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers in the Travel Protection Plan, and (2) Include the Travel Insurance disclosures and the contact information for persons providing Travel Assistance Services, and Cancellation Fee Waivers, as applicable.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- \_\_\_\_\_ Producers' own advertising and sales materials and travel retailers acting under the direction of a Limited Lines Travel Insurance Producer

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 3 The Limited Lines Travel Insurance Producer has established and maintains a register of each travel retailer that offers travel insurance on the producer's behalf.**

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (2):

(2) At the time of licensure, the Limited Lines Travel Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer's behalf. The register shall be maintained and updated by the Limited Lines Travel Insurance Producer and shall include the name, address, and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. ~~The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC §1033. The grounds for the suspension, revocation and the penalties applicable to resident insurance producers under [insert applicable reference to insurance code], shall be applicable to the Limited Lines Travel Insurance Producers and Travel Retailers.~~ *[Stricken language is not relevant to this standard.]*

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 4 The Limited Lines Travel Insurance Producer has documentation sufficient to demonstrate compliance that the travel retailers (acting under the Limited Lines Travel Insurance Producer’s license) comply with 18 USC §1033.**

**Citation:** Model 632 – Section 4 – Licensing and Registration, Subsection B (2):

~~(2) At the time of licensure, the Limited Lines Travel Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer’s behalf. The register shall be maintained and updated by the Limited Lines Travel Insurance Producer and shall include the name, address, and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer’s operations, and the Travel Retailer’s Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC §1033. The grounds for the suspension, revocation and the penalties applicable to resident insurance producers under [insert applicable reference to insurance code], shall be applicable to the Limited Lines Travel Insurance Producers and Travel Retailers. [Stricken language is not relevant to this standard.]~~

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer’s designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 5 Consumers are provided with information and an opportunity to learn more about the pre-existing condition exclusions (i) at any time prior to the purchase and (ii) in the fulfillment materials.**

**Citation:** Model #632, Section 7 – Sales Practices, Subsection C (2): For Travel Insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase, and in the coverage’s Fulfillment Materials.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Policy form, fulfillment materials, advertising/sales materials, and disclosures

Others Reviewed

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\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

**Review Procedures and Criteria**

Determine that information about pre-existing condition exclusions is provided prior to the time of purchase

Determine that the fulfillment materials provide information about pre-existing condition exclusions

Determine that the policies or certificates and fulfillment materials clearly define pre-existing conditions as intended in the exclusions

Determine the completeness of the pre-existing condition exclusion and definition in the contract.

**STANDARDS  
MARKETING AND SALES**

**Standard 6** Descriptions of the following are provided: (i) material or actual terms of the insurance coverage, (ii) process for filing a claim, (iii) review or cancellation process for the Travel Insurance policy and (iv) the identity and contact information of the insurer and Limited Lines Travel Insurance Producer.

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (1) (a) through (d):  
The Limited Lines Travel Insurance Producer or Travel Retailer provides to purchasers of Travel Insurance:  
(a) A description of the material terms or the actual material terms of the insurance coverage;  
(b) A description of the process for filing a claim;  
(c) A description of the review or cancellation process for the Travel Insurance policy; and  
(d) The identity and contact information of the insurer and Limited Lines Travel Insurance Producer.

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer’s designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this Act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 7 The Limited Lines Travel Insurance Producer has a program and procedures in place to instruct or train each employee and authorized representative of any travel retailer whose duties include offering and disseminating travel insurance under the Limited Lines Travel Insurance Producer's license.**

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (6):

The Limited Lines Travel Insurance Producer requires each employee and authorized representative of the Travel Retailer whose duties including offering and disseminating Travel Insurance to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review and approval. The training materials shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this Act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ Limited Lines Travel Insurance Producer's policies and procedures, including the standards for product training
- \_\_\_\_\_ Limited Lines Travel Insurance Producer's instruction/training files travel retailer employees and authorized representatives offering or disseminating travel insurance
- \_\_\_\_\_ Limited Lines Travel Insurance Producer's training materials for travel retailer employees and authorized representatives offering or disseminating travel insurance

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

Review policies and procedures to ensure that the Limited Lines Travel Insurance Producer has adequate procedures in place to provide instruction and training, including product-specific training that is appropriate to the specific product(s) being sold for each insurer. Review the Limited Lines Travel Insurance Producer's procedures to inform travel retailers of the regulated entity's standards for travel insurance product training and of applicable state statutes, rules or regulations regarding the solicitation and sale of travel insurance products.

Determine that the Limited Lines Insurance Travel Insurance Producer has adequate procedures in place to verify that the employees and authorized representatives of a travel retailer have completed necessary training, as required by applicable state statutes, rules and regulations, before allowing the employees and authorized representatives to sell travel insurance for that insurer.

Review complaint logs, any applicable complaint files and any investigation files for allegations of unsuitable, improper or misleading sales by the travel retailer's employees or authorized representatives. *[Drafting note: Should the examination extend into this level of review of the travel retailer's operations?]*

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**STANDARDS  
MARKETING AND SALES**

**Standard 8 The Limited Lines Insurance Producer has product-specific training standards and materials designed to provide travel retailers with adequate knowledge of the travel insurance products recommended prior to travel retailers offering or disseminating the sale of travel insurance products.**

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (6):

The Limited Lines Travel Insurance Producer requires each employee and authorized representative of the Travel Retailer whose duties including offering and disseminating Travel Insurance to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review and approval. The training materials shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ Agency correspondence file/Agency bulletins
- \_\_\_\_\_ Agency procedural manual
- \_\_\_\_\_ Producer training materials

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

Contact other regulators that may have conducted a recent review of the training standards.

Determine if the insurer product-specific training materials are appropriate and accurately reflect the coverage provided by the travel insurance product.

Review regulated entity's records to determine if, when and how product-specific training occurred prior to the employees or authorized representatives of a travel retailer recommend a travel insurance product.

**STANDARDS  
MARKETING AND SALES**

**Standard 9 The travel insurer has procedures in place to require its producers to comply with applicable travel retailer training requirements.**

**Citation:** Model #632, Section 4 – Licensing and Registration, Subsection B (6):

(6) The Limited Lines Travel Insurance Producer requires each employee and authorized representative of the Travel Retailer whose duties include offering and disseminating Travel Insurance to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review and approval. The training materials shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

**Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility:

As the insurer’s designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ Agency correspondence file/Agency bulletins
- \_\_\_\_\_ Agency procedural manual
- \_\_\_\_\_ Producer training materials

Others Reviewed

**NAIC Model References**

*Travel Insurance Model Act (#632)*  
*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 10 The Limited Lines Travel Insurance Producer has designated a “Designated Responsible Producer.”**

**Citation:** Model #632, Section 4 – Licensing and Registration, Subsection B (3):

(3) The Limited Lines Travel Insurance Producer has designated one of its employees who is a licensed individual producer as the person (a “Designated Responsible Producer” or “DRP”) responsible for the compliance with the Travel Insurance laws and regulations applicable to the Limited Lines Travel Insurance Producer and its registrants.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_

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**NAIC Model References**

*Travel Insurance Model Act (#632)*

*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

**STANDARD  
MARKETING AND SALES**

**Standard 11 Sales practices do not include “negative option or opt out.”**

**Citation:** Model #632, Section 7 – Sales Practices, Subsection D:

D. Opt out. No person offering, soliciting, or negotiating Travel Insurance or Travel Protection Plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ Sales and marketing

Others Reviewed

\_\_\_\_\_

\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

**STANDARDS  
MARKETING AND SALES**

**Standard 12 Blanket coverage is not marketed or described as “free” coverage.**

**Citation:** Model #632, Section 7 – Sales Practices, Subsection E:

E. It shall be an unfair trade practice to market Blanket Travel Insurance coverage as free.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

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**NAIC Model References**

*Travel Insurance Model Act (#632)*

**Review Procedures and Criteria**

Review the use of the words/phrases “free,” “no cost,” “without cost,” “no additional cost,” “at no extra cost” or words/phrases of similar import. Such words/phrases should not be used with respect to any benefit or service being made available with a policy, unless true.

If there is no charge to the insured, then the identity of the payor must be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

**STANDARD  
MARKETING AND SALES**

**Standard 13** If the aggregator’s website provides a short summary of the coverage, determine that the consumer has access to the full provisions of the policy by electronic means.

**Citation:** Model #632, Section 7 – Sales Practices, Subsection C (5):

(5) Where Travel Insurance is marketed directly to a consumer through an insurer’s website or by others through an Aggregator Site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)*

**Review Procedures and Criteria**

## **D. Producer Licensing**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD  
PRODUCER LICENSING**

**Standard 1 Determine that the activities of a travel retailer, acting within the Limited Lines Travel Insurance Producer's license, comply with applicable state statutes, rules and regulations pertaining to the oversight of property and casualty travel insurance.**

**Citation:** Model #632, Section 4 – Licensing and Registration, Subsection B:

B. A Travel Retailer may offer and disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity license only if the following conditions are met:

(1) The Limited Lines Travel Insurance Producer or Travel Retailer provides to purchasers of Travel Insurance:  
(a) A description of the material terms or the actual material terms of the insurance coverage; (b) A description of the process for filing a claim; (c) A description of the review or cancellation process for the Travel Insurance policy; and (d) The identity and contact information of the insurer and Limited Lines Travel Insurance Producer.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

Others Reviewed

\_\_\_\_\_

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**NAIC Model References**

*Travel Insurance Model Act (#632)*

*Unfair Trade Practices Act (#880)*

*State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*

**Review Procedures and Criteria**

Determine if the requested coverage is issued.



## **E. Policyholder Service**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD  
POLICYHOLDER SERVICE**

**Standard 1 The content and delivery of fulfillment materials and the policy documentation comply with applicable state statutes, rules and regulations pertaining to the oversight of property and casualty travel insurance.**

**Citation:** Model #632, Section 7 – Sales Practices, Subsection C Marketing (3):

(3) The Fulfillment Materials and the information described in Section 4B(1)(a)-(d) shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a Travel Protection Plan. ~~Unless the insured has either started a covered trip or filed a claim under the Travel Insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the Travel Protection Plan price from the date of purchase of a Travel Protection Plan until at least: (a) Fifteen (15) days following the date of delivery of the Travel Protection Plan's Fulfillment Materials by postal mail; or (b) Ten (10) days following the date of delivery of the Travel Protection Plan's Fulfillment Materials by means other than postal mail. For the purposes of this section, delivery means handing Fulfillment Materials to the policyholder or certificate holder or sending Fulfillment Materials by postal mail or electronic means to the policyholder or certificate holder.~~

*[Stricken language is not relevant to this standard.]*

**Citation:** Model #632, Section 7 – Sales Practices, Subsection C Marketing (4):

(4) The company shall disclose in the policy documentation whether the Travel Insurance is primary or secondary to other coverage.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ All applications

Others Reviewed

\_\_\_\_\_  
\_\_\_\_\_

**NAIC Model References**

*Travel Insurance Model Act (#632)  
Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

## **F. Underwriting and Rating**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

**STANDARD  
UNDERWRITING AND RATING**

**Standard 1 Minimum data collection standards to ensure proper allocation for payment of premium tax have been established.**

**Citation:** Model #632, Section 5 Premium Tax

A. A travel insurer shall pay premium tax, as provided in [insert reference to the state's existing premium tax provision] on Travel Insurance premiums paid by any of the following:

- (1) An individual primary policyholder who is a resident of this state;
- (2) A primary certificate-holder who is a resident of this state who elects coverage under a Group Travel Insurance policy; or
- (3) A Blanket Travel Insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased Blanket Travel Insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

B. A travel insurer shall:

- (1) Document the state of residence or principal place of business of the policyholder or certificateholder, as required in Section 5A; and,
- (2) Report as premium only the amount allocable to Travel Insurance and not any amounts received for Travel Assistance Services or Cancellation Fee Waivers.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ All applications

Others Reviewed

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**NAIC Model References**

*Travel Insurance Model Act (#632)*

**Review Procedures and Criteria**

**STANDARD**  
**UNDERWRITING AND RATING** *[Drafting Note: May be unnecessary]*

**Standard 2 The insurer's travel insurance products are classified as inland marine insurance.**

**Citation:** Model #632, Section 9 Policy:

A. Notwithstanding any other provision of the [insurance code], Travel Insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance, provided, however, that travel insurance that provides coverage for sickness, accident, disability or death occurring during travel, either exclusively, or in conjunction with related coverages of emergency evacuation or repatriation of remains, may be filed under either an accident and health line of insurance or an inland marine line of insurance.

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

\_\_\_\_\_ Applicable statutes, rules and regulations

\_\_\_\_\_ All applications

Others Reviewed

**NAIC Model References**

*Travel Insurance Model Act (#632)*

**Review Procedures and Criteria**

## **G. Claims**

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

**STANDARD  
CLAIMS**

**Standard 1 Verify through the claims records that there is no evidence of “illusory coverage.”**

**Citation:** Model #632, Section 7 – Sales Practices, Subsection B:

B. Illusory Travel Insurance. Offering or selling a Travel Insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under [insert reference to NAIC model Unfair Trade Practices Act (#880)].

**Apply to:** All property and casualty travel insurance products

**Priority:** Essential

**Documents to be Reviewed**

- \_\_\_\_\_ Applicable statutes, rules and regulations
- \_\_\_\_\_ Review policy forms and endorsements
- \_\_\_\_\_ Claim files
- \_\_\_\_\_ Claim complaint records
- \_\_\_\_\_ Claim procedure/underwriting manuals

**NAIC Model References**

*Travel Insurance Model Act (#62)*  
*Unfair Trade Practices Act (#880)*

**Review Procedures and Criteria**

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## SUMMARY OF NEW TRAVEL INSURANCE EXAMINATION STANDARDS

- Created a new chapter: Chapter 21A – Conducting the Property and Casualty Travel Insurance Examination
- For the business area “**Operations/Management**,” a placeholder was left for adding a standard if one is needed. [*We did not identify any new standards for this item.*]
- For the business area “**Complaint Handling**,” a placeholder was left for adding a standard if one is needed. [*We did not identify any new standards for this item.*]
- For the business area “**Marketing and Sales**,” several new items were identified. [*For each new item, the supporting citation from the Travel Insurance Model Act #632 is shown in the “Standard” block.*]
  - **Standard 1** All advertising and sales materials comply with applicable statutes, rules, and regulations. (*Retained most of the language from Chapter 20, Standard 1, but added some tailoring for travel insurance.*)
  - **Standard 2** The disclosures regarding combinations of travel insurance and non-insurance travel assistance services are compliant with applicable statutes, rules, and regulations.
  - **Standard 3** The Limited Lines Travel Insurance Producer has established and maintains a register of each travel retailer that offers travel insurance on the producer’s behalf.
  - **Standard 4** The Limited Lines Travel Insurance Producer has documentation sufficient to demonstrate compliance that the travel retailers (acting under the Limited Lines Travel Insurance Producer’s license) comply with 18 USC §1033.
  - **Standard 5** Consumers are provided with information and an opportunity to learn more about the pre-existing condition exclusions (i) at any time prior to the purchase and (ii) in the fulfillment materials.
  - **Standard 6** Descriptions of the following are provided: (i) material or actual terms of the insurance coverage, (ii) process for filing a claim, (iii) review or cancellation process for the Travel Insurance policy and (iv) the identity and contact information of the insurer and Limited Lines Travel Insurance Producer.
  - **Standard 7** The Limited Lines Travel Insurance Producer has a program and procedures in place to instruct or train each employee and authorized representative of any travel retailer whose duties include offering and disseminating travel insurance under the Limited Lines Travel Insurance Producer’s license.
  - **Standard 8** The Limited Lines Insurance Producer has product-specific training standards and materials designed to provide travel retailers with adequate knowledge of the travel insurance products recommended prior to travel retailers offering or disseminating the sale of travel insurance products.
  - **Standard 9** The travel insurer has procedures in place to require its producers to comply with applicable travel retailer training requirements.
  - **Standard 10** The Limited Lines Travel Insurance Producer has designated a “Designated Responsible Producer.”
  - **Standard 11** Sales practices do not include “negative option or opt out.”
  - **Standard 12** Blanket coverage is not marketed or described as “free” coverage.
  - **Standard 13** If the aggregator’s website provides a short summary of the coverage, determine that the consumer has access to the full provisions of the policy by electronic means.
- For the business area “**Producer Licensing**,” one new standard was identified.
  - **Standard 1** Determine that the activities of a travel retailer, acting within the Limited Lines Travel Insurance Producer’s license, comply with applicable state statutes, rules and regulations pertaining to oversight of property and casualty travel insurance.
- For the business area, “**Policyholder Service**,” one new standard was identified.
  - **Standard 1** The content and delivery of fulfillment materials and the policy documentation comply with applicable state statutes, rules and regulations pertaining to oversight of property/casualty travel insurance.
- For the business area, “**Underwriting and Rating**,” two new standards were identified.
  - **Standard 1** Minimum data collection standards to ensure proper allocation of premium tax have been established.
  - **Standard 2** Product is regulated as inland marine insurance [*May not be necessary*].
- For the business area, “**Claims**,” one new standard was identified.
  - **Standard 1** Verify through the claims records that there is no evidence of “illusory coverage.”

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July 10, 2019

Commissioner Bruce R. Ramage  
Chair, NAIC Market Conduct Examination Standards (D) Working Group  
Nebraska Department of Insurance  
1135 M Street  
Lincoln, NE 68508-3639

Dear Chair Ramage:

On behalf of the U.S. Travel Insurance Association (“USTiA”), I appreciate the opportunity to provide comments on the National Association of Insurance Commissioners’ (“NAIC”) Market Conduct Examination Standards (D) Working Group (“Working Group”) draft Travel Insurance Examination Standards (“Examination Standards”) dated May 22, 2019,<sup>1</sup> to accompany the new travel insurance model law (“Model Law”).<sup>2</sup> The USTiA aims to ensure that the Examination Standards are written in a way that tracks the Model Law’s requirements, both in scope and substance, and does not place additional burdens on the travel insurance industry not intended by the Model Law or its drafters.

To that end, the USTiA believes the draft Examination Standards provide helpful guidance to examiners, but at times stray beyond the Model Law’s requirements. Outlined below please find areas in the draft Examination Standards that the Working Group should amend to be consistent with the Model Law.

## I. GENERAL COMMENTS

The Model Law was enacted by the NAIC at the end of 2018. As of this writing, seven states (Arkansas, Louisiana, Maryland, Oklahoma, Rhode Island, Texas, and Virginia) have incorporated it into their state statutes. *The USTiA requests that the Working Group provide a disclaimer with the final Examination Standards to inform states that wish to do a market*

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<sup>1</sup> “Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination,” NAIC (draft May 22, 2019), *available at* [https://naic-cms.org/sites/default/files/inline-files/cmte\\_d\\_market\\_conduct\\_exam\\_standards\\_exposure\\_travel\\_ins\\_exam\\_standards\\_draft.pdf](https://naic-cms.org/sites/default/files/inline-files/cmte_d_market_conduct_exam_standards_exposure_travel_ins_exam_standards_draft.pdf) [hereinafter “Examination Standards”].

<sup>2</sup> Travel Insurance Model Act (#632), NAIC, *available at* <https://www.naic.org/store/free/MDL-632.pdf> [hereinafter “Model Law”].

conduct exam of a travel insurance company that they should only use the Examination Standards if their state has enacted its version of the Model Law.

Jurisdictional questions should be considered in the context of the overall Model Law and the ability of a state's insurance department to obtain needed information from an entity over which it clearly has jurisdiction (i.e., a travel insurer or Limited Lines Travel Insurance Producer)<sup>3</sup>. Section 4 of the Model Law already provides that the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer<sup>4</sup> and must use reasonable means to ensure compliance by the Travel Retailer with the Model Law. This provides sufficient means for a state's insurance department to ensure compliance by looking to the Limited Lines Travel Insurance Producer (or insurer, where appropriate). The UStiA requests that the Working Group amend the Examination Standards to emphasize that an examiner should 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 Limited Lines Travel Insurance Producer.

## II. MARKETING AND SALES

### **Standard 1 (All advertising and sales materials comply with applicable statutes, rules and regulations)**

This standard and its review procedures and criteria should be narrowed as Sections 4(C) and 7 of the Model Law are not as broad as indicated in the draft Examination Standards. For example, the review procedures state that an examiner should “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.”<sup>5</sup> While advertising materials are required to comply with applicable law, unlike in the life and health context, there are generally no detailed requirements for Travel Insurance (or other property & casualty) advertising requiring that the advertising materials be maintained for a certain period of time. This standard also delves into the jurisdictional question of Travel Retailers discussed above. The UStiA requests that the Working Group narrow the review procedures and criteria as follows:

“Ensure the advertising and/or sales materials being utilized by the Limited Lines Travel Insurance Producer and travel insurer provide the information required by Section 4(C) of the Model Law [or state law equivalent], are consistent with the Travel Protection Plan being offered, are not deceptive or misleading, and otherwise comply with state law.”

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<sup>3</sup> Model Law at Section 3(H).

<sup>4</sup> Travel retailer is defined as “a business entity that makes, arranges or offers planned travel and may offer and disseminate Travel Insurance as a service to its customers on behalf of and under the direction of a Limited Lines Travel Insurance Producer.” *Id.* at Section 3(P).

<sup>5</sup> Examination Standards at 7.

The UStiA also would like clarity on bullets 3 and 4 under the “Materials should” category,<sup>6</sup> as it is travel protection plans that are being sold. The UStiA requests that the Working Group use the word “clearly” instead of “prominently” in the 3<sup>rd</sup> bullet, and capture in the 4<sup>th</sup> bullet the fact that the product is a Travel Protection Plan, which generally includes both insurance and non-insurance services.<sup>7</sup>

**Standard 2 (The disclosures regarding combinations of travel insurance and non-insurance travel assistance services are compliant with applicable statutes, rules, and regulations)**

A Travel Protection Plan also could contain a Cancellation Fee Waiver.<sup>8</sup> The UStiA requests that the Working Group amend the standard to read as follows: “The disclosures regarding combinations of Travel Insurance, non-insurance Travel Assistance Services, and Cancellation Fee Waivers are compliant with applicable statutes, rules, and regulations.”

Additionally, the reference to “travel retailers” in the Documents to be Reviewed section is unnecessary because it delves into the jurisdictional question of Travel Retailers discussed above. The UStiA requests that the Working Group delete “travel retailers acting under the direction of a Limited Lines Travel Insurance Producer” or amend the Examination Standards to emphasize that an examiner should 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 Limited Lines Travel Insurance Producer.

**Standard 3 (The Limited Lines Travel Insurance Producer has established and maintains a register of each travel retailer that offers travel insurance on the producer’s behalf)**

The UStiA does not recommend any changes to this standard.

**Standard 4 (The Limited Lines Travel Insurance Producer has documentation sufficient to demonstrate compliance that the travel retailers (acting under the Limited Lines Travel Insurance Producer’s license) comply with 18 U.S.C. § 1033)**

The UStiA does not recommend any changes to this standard.

**Standard 5 (Consumers are provided with information and an opportunity to learn more about the pre-existing condition exclusions (i) at any time prior to the purchase and (ii) in the fulfillment materials)**

In many cases, travel insurers provide consumers with the opportunity to “waive” the pre-existing condition exclusion by satisfying certain conditions. Accordingly, the UStiA requests that the Working Group add the following review procedure and criteria: “Determine that any

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<sup>6</sup> *Id.* at 8.

<sup>7</sup> Model Law at Section 3(O).

<sup>8</sup> *Id.*

waivers of pre-existing condition exclusions permitted by a company are being implemented in accordance with the terms of the policy.”

With regard to the 4<sup>th</sup> review procedure and criteria, the “completeness of the pre-existing condition exclusion and definition in the contract” appears to be covered by the 3<sup>rd</sup> review procedure and criteria requiring that the policy and fulfillment materials “clearly define pre-existing conditions as intended in the exclusions.”<sup>9</sup> The UStiA requests that the Working Group delete the 4<sup>th</sup> review procedure and criteria.

**Standard 6 (Descriptions of the following information to be provided: (i) material or actual terms of the insurance coverage, (ii) process for filing a claim, (iii) review or cancellation process for the Travel Insurance policy, and (iv) the identity and contact information of the insurer and Limited Lines Travel Insurance Producer)**

The UStiA requests that the Working Group make the standard clearer—i.e., an examiner will seek this information from the insurer or the Limited Lines Travel Insurance Producer.

**Standard 7 (The Limited Lines Travel Insurance Producer has a program and procedures in place to instruct or train each employee and authorized representative of any travel retailer whose duties include offering and disseminating travel insurance under the Limited Lines Travel Insurance Producer’s license)**

**Standard 8 (The Limited Lines Insurance Producer has product-specific training standards and materials designed to provide travel retailers with adequate knowledge of the travel insurance products recommended prior to travel retailers offering or disseminating the sale of travel insurance products)**

**Standard 9 (The travel insurer has procedures in place to require its producers to comply with applicable travel retailer training requirements)**

Standards 7, 8, and 9 are mostly duplicative and could be combined into one standard. Moreover, Standard 8 does not specify that the standard applies just to a Limited Lines Travel Insurance Producer, rather than to all limited lines producers. The UStiA requests the Working Group combine the standards into one as follows:

“Standard 7: The Limited Lines Travel Insurance Producer has an adequate training program in place, containing instructions on the types of insurance offered, ethical sales practices, and required consumer disclosures, that is required of each employee and authorized representative of the Travel Retailer whose duties include offering and disseminating travel insurance.”

This language reflects the language within the Model Law. It also avoids any confusion that would arise from the language in the current draft that suggests that every insurer come up with narrowly tailored training for each and every product that is sold. A travel insurance

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<sup>9</sup> Examination Standards at 12.

training module that provides instruction as to the type of insurance offered (travel), ethical sales practices, and required disclosures are intended to educate consumers as stated. Specific details about specific products are not normally included because of the retailer's limited role relative to that of the Limited Lines Travel Insurance Producer.<sup>10</sup> The UStiA requests that the Working Group delete the phrase "and training, including product-specific training that is appropriate to the specific product(s) being sold for each insurer" and replace it with the phrase "on the types of insurance offered."

In addition, the 3<sup>rd</sup> paragraph of the review procedures and criteria for Standard 7 goes beyond the provisions of the Model Law. To the extent that misleading or deceptive sales are occurring, those can be reviewed when complaints (or marketing materials) are reviewed. There is no reason to review complaints as part of a review of whether an adequate training program is in place and such training is being provided, which is all that is required under this provision of the Model Law. Additionally, while insurers should keep records of such complaints, the UStiA is not aware of a requirement that a producer (much less a Travel Retailer) keep a copy of all complaints received. The UStiA requests that the Working Group strike the 3<sup>rd</sup> paragraph of Standard 7's review procedures and criteria.

**Standard 10 (The Limited Lines Travel Insurance Producer has designated a "Designated Responsible Producer")**

The UStiA does not recommend any changes to this standard.

**Standard 11 (Sales practices do not include "negative option or opt out.")**

While the UStiA agrees with the content of this standard, there do not appear to be any parameters clarifying what is to be reviewed and under what conditions it is to be reviewed. Accordingly, the UStiA requests that the Working Group add 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 (Blanket coverage is not marketed or described as "free" coverage.)**

The UStiA is not aware of the basis for the requirement that the identity of the payor must be prominently disclosed. There does not appear to be any legal support for this requirement in the Model Law nor does it appear to substantially enhance consumer protection. The UStiA requests that the Working Group remove this requirement from the review procedures and criteria.

**Standard 13 (If aggregator's website provides a short summary of the coverage, determine that the consumer has access to the full provisions of the policy by electronic means)**

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<sup>10</sup> The UStiA also notes that Travel Retailers, while permitted to offer and disseminate products, are not permitted to provide advice about insurance, so providing the Travel Retailer with general information about the product, ethical sales practices, etc. is also preferable to avoid implying that Travel Retailers can engage in acts only permitted for Limited Lines Travel Insurance Producers.

The UStiA does not recommend any changes to this standard.

### III. PRODUCER LICENSING

**Standard 1 (Determine that the activities of a travel retailer, acting within the Limited Lines Travel Insurance Producer’s license, comply with applicable state statutes, rules and regulations pertaining to the oversight of property and casualty travel insurance)**

The section of the Model Law referenced in this standard (i.e., Section 4(B)) provides that either the Limited Lines Travel Insurance Producer or Travel Retailer may provide the required information to the customer. Moreover, the Model Law provides that the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer.<sup>11</sup> Accordingly, to avoid jurisdictional questions pertaining to the Travel Retailer discussed above, the UStiA requests that the Working Group revise the standard to provide that examiners must 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 may request proof from the Travel Retailer.

However, determining “that the activities of a travel retailer . . . comply with applicable state statutes”<sup>12</sup> is too broad for what is actually sought for this standard. The UStiA requests that the Working Group modify the standard to read as follows: “Determine that the travel insurer or Limited Lines Travel Insurance Producer provided the information required in Section 4(B)(1) of the Model Law to purchasers of travel insurance.”

### IV. POLICYHOLDER SERVICE

**Standard 1 (The content and delivery of fulfillment materials and policy documentation comply with applicable state statutes, rules and regulations pertaining to the oversight of property and casualty travel insurance)**

This standard appears to be aimed at examining two things: (i) whether the fulfillment materials and information required in Section 4(B)(1)(a)-(d) of the Model Law were provided “as soon as practicable” following the purchase of a travel protection plan; and (ii) whether the company disclosed in the policy documentation whether the travel insurance is primary or secondary to other coverage. If these are the two specific items to be examined, the UStiA requests that the Working Group amend the standard to focus on these specific items; otherwise, an examiner may not be certain what is to be addressed by this standard.

Additionally, if Producer Licensing Standard 1 is amended as recommended above, then the UStiA requests that the Working Group amend this standard as follows: “Determine that the fulfillment materials were provided to the policyholder or certificate holder as soon as

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<sup>11</sup> Model Law at Section 4(B).

<sup>12</sup> Examination Standards at 23.

practicable and that the insurer disclosed to the policyholder or certificate holder in the policy documents whether the travel insurance was primary or secondary to other coverage.”

Finally, because states’ laws may vary as to when the delivery of fulfillment materials satisfies the “as soon as practicable” standard, the UStiA requests that the Working Group use the “as soon as practicable” language for this standard.

## V. UNDERWRITING AND RATING

### **Standard 1 (Minimum data collection standards to ensure proper allocation for payment of premium tax have been established)**

The UStiA does not recommend any changes to this standard.

### **Standard 2 (The insurer’s travel insurance products are classified as inland marine insurance)**

The UStiA agrees with the suggestion from the drafting note here—i.e., this standard is unnecessary. Section 9(A) of the Model Law was included to establish uniformity in the filing of travel insurance rates and forms. It was not written to provide an enforcement mechanism if an insurer files its travel insurance as other than inland marine. Some states might continue to permit (or require) travel insurance to be filed as other than inland marine even after enactment of the Model Law, and there should be no penalty associated with a company filing its products as required or permitted by a particular state. The UStiA requests that the Working Group delete this standard.

## VI. CLAIMS

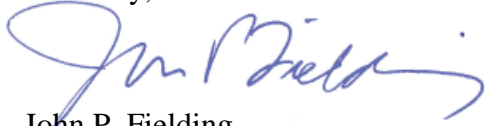
### **Standard 1 (Verify through the claims records that there is no evidence of “illusory coverage.”)**

Since providing illusory coverage is a difficult proposition to prove, the UStiA requests that the Working Group amend this standard to confine an examination 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.

\* \* \*

The UStiA hopes the information provided herein is helpful, and aids in the Working Group's deliberations. The UStiA looks forward to the opportunity to further discuss these comments with you on the next Working Group call. In the meantime, please contact me if you have any questions.

Sincerely,



John P. Fielding  
Counsel, U.S. Travel Insurance Association  
cc: Market Conduct Examination Standards (D) Working Group Members





July 10, 2019

Director Bruce R. Ramage, 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 Ramage and Mr. Hamblen:

The American Property Casualty Insurance Association (APCIA)<sup>1</sup> 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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<sup>1</sup> 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 3<sup>rd</sup> 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

**POLICY IN FORCE STANDARDIZED DATA REQUEST**  
**Property & Casualty Line of Business**  
**Workers Compensation**

Contents: This file should be downloaded from company system(s) and contain one record for each workers compensation policy issued in [applicable state] which was in force at any time during the examination period.

For any fields where there are multiple entries, please repeat field as necessary.

Uses: Data will be used to determine if the company follows appropriate procedures with respect to the issuance and/or termination of workers compensation policies in [applicable state] within the scope of the examination.

Field Name	Start	Length	Type	Decimals	Description
CoCode	1	5	A		NAIC company code
PolPre	6	3	A		Policy prefix <b>Repeat field as necessary for each additional covered class (Blank if NONE)</b>
PolNo	9	20	A		Policy number
PolSuf	29	3	A		Policy suffix <b>Repeat field as necessary for each additional covered class (Blank if NONE)</b>
PolStTyp	32	3	A		Policy status type for the record (i.e., new or renewal) <b>Please provide a list to explain any codes used</b>
PolTyp	35	25	A		Type of policy (i.e., large deductible, small deductible, retrospective, guaranteed cost/first dollar, etc.) <b>Please provide a list to explain any codes used</b>
PolForm	60	10	A		Policy form number as filed with the insurance department
EndrNum	70	10	A		Form number of endorsement(s) added to policy <b>Repeat field as necessary</b>
Endr	80	20	A		Name of endorsement(s) Repeat field as necessary
FormNum	100	10	A		Policy coverage form number Repeat field as necessary
Form	120	20	A		Policy coverage form name Repeat field as necessary
PremEndr	130	10	N	2	Total endorsement premium
PrCode	140	6	A		Company internal producer, CSR, or business entity producer identification code <b>Please provide a list to explain any codes used</b>
NPN	146	6	A		National producer number
InsName	152	15	A		Insured/employer name
InsFEIN	167	9	A		Insured/employer Federal Employer Identification Number
InsAddr	176	25	A		Insured street address
InsCity	201	20	A		Insured city
IssSt	221	2	A		State abbreviation where policy was issued
InsZip	223	5	A		Insured ZIP code

Field Name	Start	Length	Type	Decimals	Description
ExpSt	228	2	A		Exposure state <b>Repeat field as necessary for each additional exposure state</b>
AppRecDt	230	10	D		Date application received [MM/DD/YYYY]
AppProDt	240	10	D		Date application processed [MM/DD/YYYY]
InceptDt	250	10	D		Inception date of the policy [MM/DD/YYYY]
EffDt	270	10	D		Policy effective date [MM/DD/YYYY]
AnnvDt	280	10	D		Anniversary rating date of policy [MM/DD/YYYY]
ExpDt	290	10	D		Policy expiration date [MM/DD/YYYY]
GovClsCd	305	15	A		Governing WC class code
InClsCd	320	15	A		Initial class code for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
InCIDes	335	15	A		Initial classification description for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
InLC	350	15	N	4	Initial loss cost for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
InPayrl	365	15	N	2	Initial remuneration payroll for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
LCM	380	15	N	4	Loss cost multiplier
PolIss	381	1	A		Policy issued as gross (G) or net (N) plan
LossRep	382	1	A		Losses reported on gross (G) or net (N) basis
EaAccLmt	392	10	N	2	Employers liability limit for bodily injury by accident – each accident
EaEmpLmt	402	10	N	2	Employers liability limit for bodily injury by accident – each employee
PolLmt	412	10	N	2	Limit for bodily injury by disease – policy
DedAmt	422	10	N	2	Deductible limit amount chosen by policyholder if applicable
SrAdm	432	10	N	2	Administrative surcharge factor
SrAdmAmt	442	10	N	2	Initial administrative surcharge premium
SrSIF	452	10	N	2	Second injury fund surcharge rate
SrSIFAmt	462	10	N	2	Initial amount of second injury fund surcharge
FAuDt	472	10	D		Date first audit completed [MM/DD/YYYY]
LAuDt	482	10	D		Date last audit completed [MM/DD/YYYY]
AuBilDt	492	10	D		Audit billing statement date [MM/DD/YYYY]
AuClsCd	502	10	A		Audit class code for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
AuCode	512	10	A		Class code changed at audit – Added (A), Removed (R), No change (NC)
AuLC	522	10	N	4	Audit loss cost for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>
AuPay	532	10	N	2	Audit remuneration payroll for 1 <sup>st</sup> covered class <b>Repeat field as necessary for each additional covered class</b>

Field Name	Start	Length	Type	Decimals	Description
AuAdm	542	10	N	2	Final administrative surcharge amount due to audit
AuSIF	552	10	N	2	Final second injury fund amount due to audit
AuDel	562	10	A		Reason for exceeding the required deadline to complete the audit <b>Please provide a list of codes and their descriptions</b>
AuTyp	572	10	A		Type of audit (i.e., physical, mail, phone, etc.) <b>Please provide a list of codes and their descriptions</b>
FPrmAmt	582	10	N	2	Final premium for [examination state] after audit, prior to second injury fund and administrative surcharges
PremMo	592	10	N	2	Policy premium, including second injury fund and administrative surcharges, for [examination state] only
Par	593	1	A		Is the policy participating in a dividend plan? (Y/N)
DPlanCd	603	10	A		Dividend plan code <b>If codes are used, provide a list of dividend plan codes and their descriptions</b>
DivAmt	613	10	N	2	Dividend amount paid
CanReqDt	623	10	D		Date cancellation requested, if applicable [MM/DD/YYYY]
CanTerRs	687	64	A		Reason for cancellation/termination of coverage (i.e., lapse, insured request, company cancellation) <b>If codes are used, please provide a list of codes and their descriptions</b>
CanTer	688	1	A		Who cancelled the coverage <b>C=Consumer or I=Insurer</b>
CanTerDt	698	10	D		Date policy cancelled/terminated [MM/DD/YYYY]
CanTerNt	708	10	D		Date the cancellation/termination notice was mailed [MM/DD/YYYY]
PremRef	719	11	N	2	Amount of premium refunded to the insured
RfndDt	729	10	D		Date premium refund mailed [MM/DD/YYYY]
RefMthd	754	25	A		Refund method (i.e., 90%, pro rata, etc) <b>If codes are used, please provide a list of codes and their descriptions</b>
IndLgDed	755	1	A		Is the individual risk large deductible account on file with the department? (Y/N)
DedLDP	756	1	A		Is the large deductible rating plan (including rates) on file with the department? (Y/N)
DtIndFil	766	10	D		Date individual risk large deductible account was filed [MM/DD/YYYY]
DtLDPFil	777	10	D		Date large deductible rating plan was filed [MM/DD/YYYY]
SERFFNo	791	14	A		SERFF tracking number for large deductible rating plan (or filing number if not filed in SERFF)
SERFFNum2	805	14	A		SERFF tracking number for individual large deductible account (or filing number if not filed in SERFF)

Field Name	Start	Length	Type	Decimals	Description
PremM	815	10	N	2	Manual premium = [(payroll/100) * rate]
SpDs	825	10	N	2	Supplementary disease factor
SpDsPrm	835	10	N	2	Supplementary disease premium = [(subject payroll/100) * disease rate]
USLH	845	10	N	2	US Longshore and Harbor Workers (USL&H) exposure non-F class codes factor
USLHPrm	855	10	N	2	USL&H exposure non-F class codes premium = [(subject payroll/100) * (rate*USL&H factor)]
TManPrm	865	10	N	2	Total manual premium including supplementary disease and USL&H exposures
WSub	875	10	N	2	Waiver of subrogation factor = [% applied to portion of total manual premium where waiver is applicable]
WSubPrm	885	10	N	2	Waiver of subrogation premium
ELILF	895	10	N	2	Employers liability increased limits factor = [% applied to total manual premium]
ELILCh	905	10	N	2	Employers liability increased limits charge
ELAdmF	915	10	N	2	Employers liability increased limits factor (Admiralty, FELA) = [Factor applied to the portion of the manual premium where Admiralty/FELA coverage is applicable]
ELAdmCh	925	10	N	2	Employers liability increased limits (Admiralty, FELA) charge
ELVCmpCh	935	10	N	2	Employers liability (liability/voluntary compensation flat charge = [Coverage in monopolistic state funds])
SmDedCr	945	10	N	2	Small deductible credit = [% applied to total manual premium]
SmDedPrm	955	10	N	2	Small deductible credit amount of premium
LgDedCr	965	10	N	2	Large deductible credit = [% applied to total manual premium]
LgDedPrm	975	10	N	2	Large deductible credit amount of premium
TSubjPrm	985	10	N	2	Total subject premium
ExMod	995	10	N	2	Experience modification factor
ExModPrm	1005	10	N	2	Experience modification premium amount (debit/credit)
TModPrm	1015	10	N	2	Total modified premium
CCPAP	1025	10	N	2	Contracting class premium adjustment program factor = [1-CCPAP credit %]
CCPAPPrm	1035	10	N	2	Contracting class premium adjustment program premium
SRtFact	1045	10	N	2	Schedule rating factor = (1 - SR credit %) or (1 + SR debit %)
SRtPrm	1055	10	N	2	Schedule rating premium (debit/credit)
SpDsExp	1065	10	N	2	Supplemental disease exposure charge (asbestos, NOC)
AERadExp	1075	10	N	2	Atomic energy radiation exposure charge – NOC
CatLoad	1085	10	N	2	Charge for non-ratable catastrophe loading
AirSrch	1095	10	N	2	Aircraft seat surcharge
MPrmSt	1105	10	N	2	Balance to minimum premium (State Act) = [Balance to minimum premium at standard limits]
MPrmAdmF	1115	10	N	2	Balance to minimum premium (Admiralty, FELA)
TStdPrm	1125	10	N	2	Total standard premium for [examination state]

Field Name	Start	Length	Type	Decimals	Description
StdPrmR	1135	10	N	2	Standard premium for the entire policy (risk), including other states
PrmDisc	1145	10	N	2	Premium discount factor = % applied to standard premium]
PrmDisAm	1155	10	N	2	Premium discount amounts
CMineChg	1165	10	N	2	Coal mine disease charge = [underground, surface, surface auger]
ExpCons	1175	10	N	2	Expense constant charge
TerFact	1185	10	N	2	Terrorism premium factor
TerPrm	1195	10	N	2	Terrorism premium amount = [(Payroll/100) * [___ terrorism value]
RtDev	1205	10	N	2	Additional deviation factor (outside class code exposure or schedule rating plan)
RtDevTyp	1215	10	A		Type or name of deviation description (outside class code exposure or schedule rating plan)
EstAnPrm	1225	10	N	2	Estimated annual premium as per the NCCI algorithm
EndRec	1226	1	A		End of record marker. Please place an asterisk in this field to indicate the end of the record. This must be in the same character position for every record in this table.

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