June 30, 2017

Maria T. Vullo, Superintendent
New York Department of Financial Services
One State Street
New York, NY 10004

RE: Joint Industry Letter on Proposed Regulation Governing Use of Education Level Attained and/or Occupational Status in Multi-Tier Programs (Proposed Second Amendment to Regulation 150 – 11 NYCRR 154)

Dear Superintendent Vullo:

As trade associations which represent the property and casualty insurance industry both in New York and on a national basis, we write to express our serious concerns with the proposed regulations governing the use of education level attained and/or occupational status in multi-tier programs (Proposed Second Amendment to Regulation 150 – 11 NYCRR 154).

It is a bedrock principle of insurance that actuarially appropriate underwriting and rating factors enable insurers to accurately price policies in accordance with the risk posed by policyholders and that the use of such factors is permitted in the absence of a specific public policy reason, codified by statute, prohibiting their use. There is no such statute relative to the use of education and occupation in underwriting and rating in New York law. Prohibiting the use of actuarially sound factors will result in the unfair result that lower risk drivers pay more for insurance to subsidize the rates of higher risk drivers. Studies and the data have irrefutably established the highly risk predictive nature of educational attainment and occupational groupings. Accordingly, we strongly oppose any restrictions or prohibitions on the use of these actuarially appropriate factors.

While the provisions of this proposed regulation do not, on their face, prohibit the use of education and occupation in underwriting and rating, the statements in the Background portion of the proposed regulation (Section 154.6(a)) indicate that the effect of the provisions would likely be to ban or greatly restrict the use of these actuarially appropriate factors. The Background section states that insurers must prove "that a reasonable relationship exist between the characteristics of a class and the hazard insured against". While the proposed regulation proclaims that "accepted actuarial standards and New York law" require proof of such a reasonable relationship, it should be noted that this requirement is not set forth anywhere in New York law nor are there any actuarial standards of which we are aware that set forth this requirement.

Prior to the issuance of this proposed regulation, insurers provided irrefutable data to the Department soundly demonstrating the risk predictive and actuarially appropriate nature of education and occupation and underwriting and rating factors. Other than providing such actuarial data, it appears unlikely that an insurer could ever prove the "reasonable relationship requirement" set forth in the

proposed regulation for any underwriting or rating factor. The entire premise of the regulation relates to proving "to the satisfaction of the Superintendent" that the use of these factors does not violate Article 23 of the Insurance Law. It is clear from numerous previous interactions with the Department on this issue and the language of the proposed regulation which declares that insurers previously failed to provide sufficient support for the use of these factors that actuarial data demonstrating the risk predictive nature of these factors will not be sufficient for the "satisfaction of the Superintendent". Accordingly, it appears that the likelihood that these factors could ever be used if this proposed regulation were adopted, seems very small.

Consumers benefit from accurate, risk based pricing and the use of education and occupation in underwriting and rating are important tools in ensuring accurate, risk based pricing. Many consumers pay reduced premiums in accordance with their lower risk of loss due to the use of these factors. If the use of these factors is banned, their premiums could be impacted accordingly. Further, because these factors allow for more accurate and segmented pricing, they help to bolster a healthy competitive auto insurance market in New York State. Consumers benefit most when numerous insurers are competing for their business and providing consumers with many options and choices for meeting their insurance needs. Injecting subjective notions of equity into the consideration of whether underwriting and rating factors are permissible is not in accordance with actuarial science, nor is it within the bounds of New York law and we would submit that taking a step of this nature, as outlined in this proposed regulation, will not have a positive impact on New York consumers.

Other states have examined the use of these factors and have found them to be risk predictive and actuarially appropriate. Accordingly, these factors are allowed to be used in most states and consumers in most states benefit from the healthy competitive market which is furthered by insurers being able to utilize accurate risk based pricing. We urge you not to adopt this proposed regulation which could jeopardize these benefits in New York.

We thank you for the opportunity to provide feedback on the draft. Should you have any questions regarding our comments, please do not hesitate to contact us.

Sincerely,

American Insurance Association

National Association of Mutual Insurance Companies

New York Insurance Association, Inc.

Property Casualty Insurers Association of America