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RECORDS OF MEETING

CLAIMS SUBCOMMITTEE – AUGUST 19, 2020

Members Present

Mr. David Deluca– Chair	Vermont Mutual Insurance Company
Mr. Gregory Favreau	Electric Insurance Company
Mr. Nicholas Macera ⁽¹⁾	Amica Mutual Insurance Company
Mr. Christopher Rushton ⁽²⁾	Safety Insurance Company
Mr. Joseph Salerno	Arbella Insurance Group
Ms. Mary Singas	MAPFRE U.S.A. Corporation
Mr. Aaron Wheaton	Plymouth Rock Assurance Corporation

Substituted for:

⁽¹⁾ Ms. Amy Smith

⁽²⁾ Mr. Paul Narciso

Not in Attendance:

Ms. Marie-Armel Theodat

R. Theodat Insurance Agency, Inc.

20.01 Records of Previous Meeting

On a roll call vote, the Subcommittee unanimously voted to approve the Records of the Claims Subcommittee meeting of December 20, 2018. The Records have been distributed and are on file.

20.04 Claims Performance Standards

The Claims Subcommittee met to assist the Compliance and Operations Committee with its biennial review of proposed modifications to the Private Passenger and Commercial Claims Performance Standards (the Standards) as required by G.L.c.175, §113H. Specifically, the Subcommittee reviews modifications to the Standards as proposed by Subcommittee members or CAR staff and provides a recommendation to the Compliance and Operations Committee.

Mr. Peter Bertoni provided the Subcommittee an overview of the Memorandum of Changes outlining each of the proposed amendments suggested by CAR staff. Upon conclusion, Mr. Mark Alves then began a more detailed discussion regarding each proposed change while answering Subcommittee member questions.

The first suggested change pertained to Standard II: Bodily Injury & Uninsured/Underinsured Motorist and Standard III: No-Fault Personal Injury Protection Benefits Handling for both the Private Passenger and Commercial Standards. Staff noted that this originated during the April 12, 2019 public

hearing pertaining to the prior review and recommended changes to the Standards. The Presiding Officer suggested that staff improve upon the phrase ‘consulted and considered’ relating to the special investigations standards in Section D. Fraud Handling of Standard III. She noted that Appendix A: CAR SIU Standards includes precise guidelines for the investigation of motor vehicle accidents and that the companies must comply with these procedures.

To address the Presiding Officer’s comments, staff suggested replacing ‘consulted and considered’ with ‘adhere to’ as appropriate. A Subcommittee member questioned if this modification would increase the requirements mandated of the industry for claims handling. Mr. Alves responded that this change would not impose stricter guidelines for the handling of claims because the expectation of adherence to the special investigation standards already existed. Subcommittee member Mr. Gregory Favreau stated that the same phrase also existed in Standard I: Motor Vehicle Physical Damage & Property Damage Liability Claims and should be adjusted for consistency in this section as well.

Next, the Measurements & Penalties Standards for the Commercial and Private Passenger Standards were discussed by the Subcommittee. Staff indicated that while changes were made to both Standards some differences existed in the proposed language.

Mr. Alves described the changes made to the Commercial Standards noting language inserted into Section A.5 that defines the SIU audits of SCs conducted concurrently with the Claims Performance Standards audits. The description included the Best Practices measured in the SIU audit and a minimum aggregate compliance score of 80%. The 80% benchmark was selected because this was consistent with preexisting language in the Commercial Measurements & Penalties Standard. Mr. Alves commented that the ability to assess a penalty to a Servicing Carrier (SC) for non-compliance already exists in this Standard based on the assignment of a Type I or Type II category. The category determination then references a tiered Schedule of Penalties based on the number of non-compliant occurrences. Staff recommended that the SIU non-compliance be assigned the Schedule of Penalties based on the Type I category.

Regarding the Measurements & Penalties for Private Passenger business, staff commented that a Memorandum was included in the Additional Information that further explained the recommended changes. Mr. Alves explained that the Claims Subcommittee in 2016 recommended that CAR take appropriate action when the audited company is considered not compliant with the SIU statute. While the recommendation was ultimately adopted by the Governing Committee, no penalty for non-compliance was written into the Standard. Mr. Alves noted that the recommended changes are consistent with the Measurements & Penalties Standard in the Commercial Standards, and suggested that addition into the Private Passenger Standard would deter continued non-compliance. That is, the inserted Private Passenger language includes the same SIU audit description and proposed penalties as the already existing commercial Tier I Schedule of Penalties. In addition, the recommended minimum of 80% aggregate compliance rate of all Best Practices tested in the SIU review is also consistent to the Commercial Standards.

Staff described proposed changes to Appendix A: CAR Special Investigative Unit Standards for Private Passenger and Commercial. Mr. Alves again referenced the Memorandum that provided additional explanation for staff’s proposed changes. He described CAR Rules 10.C. (Commercial) and 32.C (Private Passenger) applicable to SIU requirements. In addition to mandating that all companies must investigate suspicious claims for the purpose of eliminating fraud, the Rules also consider underwriting concerns applicable to the SIU. Specifically, the SIU shall investigate underwriting, rating and premium issues and audit a representative sample of policies to verify garaging and policy facts.

In order to support CAR review of compliance, the Standards currently require that carriers upload a log of all SIU claim referral activity to CAR’s website. The Memorandum also referenced the audit methodology in Appendix J for Private Passenger and Commercial Standards language that specifically includes both claims and underwriting referrals in the SIU samples. Staff recommended that the activity

pertaining to SIU underwriting investigations be uploaded into the same SIU System currently used by the industry for claim referrals.

The Subcommittee discussed the differences between underwriting SIU referrals and the representative sample audits to verify garaging and policy facts. Mr. Alves noted the recent SC SIU efforts to investigate the eligibility of commercial risks for coverage in the Massachusetts residual market as an example of an underwriting issue that results in the SIU investigation. Through the consistent reporting of both claim and underwriting referrals, staff will have a more complete understanding of the company and industry SIU activity and will be able to better document the company efforts in audit reports. This allows for a singular approach for the industry to report underwriting referrals using the same SIU System as the claims referrals. This also provides an additional opportunity for Assigned Risk Companies (ARCs) to comply with the requisite minimum number of referrals necessary for a valid SIU sample in accordance with audit procedures detailed in Appendix J.

Staff also recommended two changes to Appendix J: CAR SIU File Review Process of both the Private Passenger and Commercial Standards.

The first change relates to the process of determining adherence to the Accurate Savings Best Practice considered in the SIU audit. Staff suggested a methodology by coverage for consistent evaluation and reporting of the Saved Amount in the SIU Quarterly Activity Logs. Standardizing the Saved Amount provides a consistent measurement for staff to estimate company and industry savings attributable to the efforts of the SIU.

The second change to Appendix J was the added requirement that ARCs and SCs email quarterly any completed examples of representative sample audits of policies verifying garaging and policy facts. Mr. Alves explained that the current audit procedure requires staff to request examples of company audits which meet the requirements of CAR Rules 10.C. or 32.C. within the effective period of the sample at the time of audit. By requiring the audit reports be provided to CAR quarterly, staff could properly monitor adherence to the requirement on an annual basis for all companies, as opposed to only those scheduled for audit.

On a roll call vote, the Subcommittee voted unanimously to recommend to the Compliance and Operations Committee, approval of the amendments to the Private Passenger and Commercial Standards as proposed by CAR staff, with the additional language to Standard I regarding adherence to the special investigations standards as proposed by the Subcommittee.

MARK ALVES
Director - Compliance Audit

Boston, Massachusetts
August 27, 2020

ATTACHMENT LISTING

Docket #CLMS20.02, Exhibit #1

Attendance Listing

