



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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617-338-4000

NOTICE OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE

A meeting of the Commercial Automobile Committee will be held at the Automobile Insurers Bureau Conference Center at 101 Arch Street, 7th Floor, Boston, on

TUESDAY, JUNE 12, 2018 AT 10:30 A.M.

MEMBERS OF THE COMMITTEE

Mr. Thomas DePaulo – Chair
Cabot Risk Strategies, LLC

Mr. Peter Chung
Ms. Sarah Clemens
Ms. Sheila Doherty
Ms. Mayre Hammond
Mr. Coleman Johnson
Mr. Brian Lam
Mr. John Olivieri, Jr.
Mr. Thomas Skelly, Jr.
Mr. Barry Tagen

The Norfolk & Dedham Group
MAPFRE U.S.A. Corporation
Doherty Insurance Agency, Inc.
Arbella Insurance Group
The Hanover Insurance Company
Safety Insurance Company
J.K. Olivieri Insurance Agency, Inc.
Deland, Gibson Insurance Associates, Inc.
Pilgrim Insurance Company

AGENDA

CAC

18.01 Records of Previous Meeting

The Records of the Commercial Automobile Committee meeting of April 2, 2018 should be read and approved.

CAC

18.03 CAR Conflict of Interest Policy

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

CAC

18.06 Commercial Automobile Residual Market Standards Subcommittee

The Chair of the Commercial Automobile Residual Market Standards Subcommittee will report on the meetings of April 25, 2018, May 9, 2018 and May 30, 2018. The Records of the April 25, 2018 meeting have been distributed and are on file. The Records of the May 9, 2018 meeting and the Subcommittee's proposed Servicing Carrier and Exclusive Representative Producer Standards for determining and validating principal place of business, including the Principal Place of Business certification form are attached. (Docket # CAC18.06, Exhibits #2 and #3)

The Records of the May 30, 2018 meeting will be distributed as additional information prior to the meeting.

Other Business

To transact any other business that may properly come before this Committee.

Executive Session

The Commercial Automobile Committee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, § 21.

WENDY BROWNE
Vice President – Business Operations

Attachments

Boston, Massachusetts
May 30, 2018



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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE RESIDUAL MARKET STANDARDS SUBCOMMITTEE – MAY 9, 2018

Members Present

Mr. John Olivieri, Jr. – Chair
Ms. Sarah Clemens
Mr. Coleman Johnson
Mr. Brian Lam
Mr. Thomas Skelly, Jr.
Mr. Barry Tagen

J.K. Olivieri Insurance Agency, Inc.
MAPFRE U.S.A. Corporation
The Hanover Insurance Company
Safety Insurance Company
Deland, Gibson Insurance Associates, Inc.
Pilgrim Insurance Company

Substituted for:
N/A

Not in Attendance:
Ms. Sheila Doherty
Ms. Mayre Hammond

Doherty Insurance Agency, Inc.
Arbella Insurance Group

18.01 Records of Meeting

The Subcommittee unanimously voted to approve the Records of the Commercial Automobile Residual Market Standards Subcommittee meeting of April 25, 2018. The Records have been distributed and are on file.

18.04 Commercial Residual Market Issues

Ms. Wendy Browne reported that the list of issues impacting the commercial residual market has been updated to reflect the current status of the Subcommittee's deliberations. She stated that at today's meeting, the Subcommittee should review the updated standards and certification form to be used by Servicing Carriers and Exclusive Representative Producers for validating a risk's principal place of business. Additionally, the Subcommittee should review the updated standards, certification and operator exclusion forms to be used by Servicing Carriers and Exclusive Representative Producers for validating a non-fleet private passenger type risk's eligibility in the commercial residual market. The Subcommittee will also begin to consider amendments to Rule 14 – Exclusive Representative Producer Requirements, review the updated information sharing proposal that describes the development of a web application for the sharing of information among Servicing Carriers in order to improve consistency and results in the Commercial Servicing Carrier Programs, and begin to discuss whether to limit coverage in the residual market to policies written on a specified car basis. Finally, she noted that the list of issues has been updated to include an item for review of non-ownership liability classifications with the goal of improving the residual market results for those risks.

18.06 Standards for Validating the Principal Place of Business

Mr. John Metcalfe stated that in accordance with discussion at the Subcommittee's April 25, 2018 meeting, staff has updated the standards and certification form to be used for validating a risk's principal place of business to include minor language and formatting modifications. The Subcommittee discussed the modifications made and suggested several additional minor clarifications. Mr. Metcalfe noted that staff will update the standards document and certification form as discussed by the Subcommittee, and will assure that both the principal place of business and non-fleet private passenger type risk documents are updated consistently with similar formatting and language enhancements, as appropriate. He further noted that the producer requirement to obtain signed certifications will be documented in Rule 14 – Exclusive Representative Producer Requirements.

Mr. Steven Torres, counsel for CAR, responded to a prior query from the Subcommittee relative to whether the certification form could be used on renewal policies in addition to new business commercial residual market risks. He noted that per Rule 4 – Standard Procedures of the Commercial Automobile Insurance Manual, a Servicing Carrier may elect to include a renewal application or questionnaire with the renewal policy and he therefore opined that in accordance with this Rule, it would be acceptable for the certification form to be used in the processing of renewal business.

On a unanimous vote, the Subcommittee recommended that the Commercial Automobile Committee adopt and forward to the Governing Committee the Servicing Carrier and Exclusive Representative Producer Standards for determining and validating principal place of business and the Principal Place of Business certification form, with the additional modifications as discussed by the Subcommittee.

18.08 Standards for Validating Non-Fleet Private Passenger Type Risks

Mr. Metcalfe stated that in accordance with the Subcommittee's discussions at its April 25, 2018 meeting, staff has updated the standards, certification form and operator exclusion form to be used to validate information provided by a risk in order to determine whether a non-fleet private passenger type risk is eligible for placement in the commercial automobile residual market. He indicated that the updates made include minor language and formatting modifications and specifically address Subcommittee concerns relative to the eligibility of operators with foreign licenses and the identification of all individuals permitted to operate the vehicles, including the scenario where the owner(s) of the business is not listed on the application.

The Subcommittee discussed the modifications made and suggested further clarification be added to the certification form relative to the owner(s) not listed and the procedures to assure that the Servicing Carrier and ERP standards relative to documentation requirements are consistent. Additionally, staff and counsel agreed to review RMV requirements in order to document and determine eligibility of those operators with foreign licenses.

Mr. Metcalfe indicated that staff will provide updated documents to the Subcommittee at its next meeting. He further noted that the producer requirement to obtain signed certifications will be documented in Rule 14 – Exclusive Representative Producer Requirements. Staff will also draft a rule in the Commercial Automobile Insurance Manual with information relative to the operator exclusion form and use of the endorsement so that the Subcommittee will have a complete package to act on at its next meeting.

18.09 Producer Requirements

Mr. Metcalfe noted that the Subcommittee was requested to review the provisions of Rule 14 – Exclusive Representative Producer Requirements and forward his recommendations relative to suggested enhancements to the existing producer requirements. The Subcommittee discussed the feedback received and agreed that of the suggestions presented, the producer eligibility requirements contained in Rule 14 should be updated to reflect that a new producer must provide evidence of work experience reflective of a minimum of 12 months with a licensed producer or Member, with the applicant's efforts primarily devoted to the commercial insurance market, prior to action being taken on the producer's application for a commercial appointment. Members felt that suggested recommendations to enhance existing producer education, production and termination period requirements were not needed. Mr. Metcalfe indicated that staff will modify Rule 14 to reflect the Subcommittee's recommendation and will present the updated language to the Subcommittee at its next meeting.

18.10 Information Sharing

Ms. Browne presented the Subcommittee with an updated proposal for developing a new online information sharing system for Servicing Carriers to access information on risks that have been declined, non-renewed or cancelled as a result of being ineligible for coverage in the Massachusetts commercial residual market. She noted that the proposal has been updated based upon Subcommittee discussions at its last meeting. Servicing Carriers would be required to enter a record into the database within 2 business days of the declination, non-renewal or cancellation and CAR will provide carriers with a daily notification summarizing any activity that has occurred. Reinstatement information, if applicable, will be required to be identified and drop down boxes will provide information on class type and the reason for ineligibility.

On a unanimous vote, the Subcommittee recommended to the Commercial Automobile Committee that staff move forward on the development of the information sharing system.

18.11 Covered Automobiles

Ms. Browne stated that CAR is proposing to limit coverage in the residual market to policies written on a specified car basis and at the next meeting, staff will draft proposed modifications to CAR's rules and manuals for the Subcommittee's review.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
May 15, 2018

Commercial Auto Market Standards Subcommittee
Exclusive Representative Producer Requirements
Committee Member Suggested Amendments

In review of CAR Rule 14, Rules of Operation Exclusive Representative Producer Requirements, we feel that, at a minimum, the following items should be considered:

1. In Section A4 (a) and (b) – Propose to provide more robust/specific education requirements rather than “A course of study approved by the Commissioner of Insurance, which concentrates on the commercial Massachusetts Motor Vehicle Insurance System”. Reviewing the DOI website, there is not specific courses noted in the educational requirements (<https://www.mass.gov/files/documents/2017/10/20/211cmr50.pdf>)
2. In Section A4(c) –Propose to increase the required minimum period of work to be 1 year. The current language notes “Within the preceding 12 month period, work for a minimum of 6 months...” Also specify that the work should be devoted to Commercial Insurance. The current language notes, “the applicant’s efforts were primarily devote to the Massachusetts Motor Vehicle Insurance market”.
3. In Section C1 – Propose to increase the minimum requirements to \$100,000 at end of 12 Months, \$250,000 at end of 24 months, and \$500,000 at end of 36 months.
4. In various Sections through Rule 14, the termination period referenced is 24 months. Propose to increase this to a minimum of 60 months.

Servicing Carrier Standards for Validating the “Nerve Center” Principal Place of Business

Standards for the validation of Principal Place of Business (“Nerve Center”): In determining whether a risk is eligible for placement in the commercial automobile residual market, Servicing Carriers and Exclusive Representative Producers are required to validate whether or not the risk’s declared principal place of business meets the “nerve center” test. As such, operations taking place in the corporation’s “nerve center” would include, but not be limited to:

- Computer/monitoring systems that track the location of the vehicles
- Scheduling systems for vehicle operations and corresponding routes
- Systems for responding to vehicles requiring roadside or emergency assistance
- Payroll systems
- Depending upon the business operation, commensurate hours of operation
- Telephone systems to handle customer service, driver assistance, maintenance and repair, vendor and/or employee communications
- Treasury management systems for disbursing and collecting funds
- Administrative activities to support business operations

Note that a mail drop box, a bare office with a computer, or a location where executives only occasionally meet, does not qualify as Principal Place of Business for the purpose of determining eligibility for cession to the MA residual market.

Servicing Carriers should require and receive a signed Principal Place of Business Certification Form attesting to the information submitted on the application on all risks for insurance pursuant to the insured’s principal place of business. The certification must be signed and dated by the insured and writing producer.

Underwriting Tools and Opportunities: Servicing Carriers should take advantage of, but not limited to, the following options in determining risk eligibility relative to the principal place of business and “nerve center”:

- 1) Proof of Principal Place of Business
 - a) Use of the Secretary of Commonwealth’s Corporations Division website to determine:
 - If the risk and/or the risk’s Federal Employer Identification Number (FEIN) is registered with the Corporations Division
 - Date of Origination
 - The identity of the risk’s officers, directors, partners and/or managers
 - The location of the risk’s principal office in Massachusetts
 - The state in which the risk was organized
 - Who signed the organizational documents for the risk
 - b) Use of an Internet search engine to determine if the risk has a website for Massachusetts and/or other state operations and to verify office location(s) or if there is information relative to any of the corporate officers
 - c) Use of the RMV systems to determine if the risk’s officers, directors, partners and/or managers have a Massachusetts address/operator’s license and to determine if the risk previously was insured with a Massachusetts carrier
 - d) Review of loss runs, if available, to determine if the risk’s operations are in Massachusetts
 - e) Review of FMCSA filings, if applicable, to verify address on the risk’s new business application

The Servicing Carrier may also request the risk and/or Exclusive Representative Producer to provide additional information as noted, but not limited to the Exclusive Representative Producer Standards for Determining the “Nerve Center” Principal Place of Business. An SIU investigation may also be requested. As part of the underwriting process and/or SIU investigation, the risk’s principal/owner will be required to corroborate information collected by the writing Exclusive Representative Producer.

Pursuant to Rule 10 – Claims of CAR’s Rules of Operation, Servicing Carriers are required to conduct audits on representative samples of policies to verify garaging and policy facts. However, market conditions may warrant increased awareness and focus on specific classifications of business due to suspected fraud, increased loss experience, or other negative impacts on the commercial automobile residual market during the Servicing Carrier contract period. If such occasions occur, the specific classifications will be identified, through CAR’s committee process, for mandatory Servicing Carrier SIU investigations involving the principal place of business. **At its March 29, 2018 meeting the Commercial Automobile Market Standards Subcommittee directed that Servicing Carriers be notified of an expectation to enhance their focus on validating principal place of business for intermediate and long distance TTT and bus classifications.**

Exclusive Representative Producer Standards for Determining the “Nerve Center” Principal Place of Business

Standards for the validation of Principal Place of Business (“Nerve Center”): In determining whether a risk is eligible for placement in the commercial automobile residual market, Exclusive Representative Producers and Servicing Carriers are required to validate whether or not the risk’s declared principal place of business meets the “nerve center” test. As such, operations taking place in the corporation’s “nerve center” would include, but not be limited to:

- Computer/monitoring systems that track the location of the vehicles
- Scheduling systems for vehicle operations and corresponding routes
- Systems for responding to vehicles requiring roadside or emergency assistance
- Payroll systems
- Depending upon the business operation, commensurate hours of operation
- Telephone systems to handle customer service, driver assistance, maintenance and repair, vendor and/or employee communications
- Treasury management systems for disbursing and collecting funds
- Administrative activities to support business operations

Note that a mail drop box, a bare office with a computer, or a location where executives only occasionally meet, does not qualify as Principal Place of Business for the purpose of determining eligibility for cession to the MA residual market.

***** Exclusive Representative Producers must provide a signed Principal Place of Business Certification Form on all risks to their Servicing Carrier attesting to the information submitted on the application for insurance pursuant to the insured’s principal place of business. The certification form must be signed and dated by the insured and the writing producer to confirm that the risk meets the definition of Principal Place of Business as specified in CAR Rule 2.**

Risk Evaluation Tools and Opportunities: Exclusive Representative Producers should ascertain the following in determining risk eligibility relative to the principal place of business and “nerve center” prior to submitting a risk to their Servicing Carrier for placement in the commercial auto residual market:

- 1) **Proof of Principal Place of Business**
 - a) Whether the company is headquartered in Massachusetts and meets the definition of Principal Place of Business as specified in Rule 2 – Definitions of CAR’s Rules of Operation
 - b) Whether company reports, documentation and financial records originate in the Massachusetts office
 - c) How long has the company been at the Massachusetts location
 - d) Whether the company has officers, directors, partners and/or managers residing in other states, and, if so, where
 - e) Whether business/corporate decisions and orders solely emanate from the Massachusetts principal place of business of the company, and if not, describe the corporate communications
 - f) Whether the principal owner, officers, directors, partners and/or managers all reside in Massachusetts and if not, describe residency of each.
 - g) The number of employees working out of the Massachusetts principal place of business. In Massachusetts? Out of state?
 - h) Identify the registration of all vehicles. Registered in Massachusetts? Other states?
 - i) Operators/Drivers for the company licensed/hired in Massachusetts
 - j) How often the principal/owner of the company is in the company’s Massachusetts headquarter office
 - k) Whether the payroll for the company is handled through the Massachusetts principal place of business location
 - l) Hours of the Massachusetts principal place of business location of the company
- 2) The ERP/risk will be required to provide, at the Servicing Carrier’s request, information included but not limited to the following:
 - a) Pictures of the MA location and garaging locations if different from MA mailing address
 - b) Name and location of shop providing repair and maintenance on the vehicles
 - c) Percentage of revenue derived from MA operations versus other states
 - d) Tax returns
 - e) A copy of the risk’s lease and/or other documents pursuant to the establishment of an operational office location in Massachusetts (utility bills, bank statements, tax documents, payroll records, workers comp. policy, etc.)
 - f) A list of any other address locations from which the business operates and what type of activities occur at those locations

*****TO BE CERTIFIED BY ALL APPLICANTS PRIOR TO PLACEMENT IN THE COMMERCIAL
AUTOMOBILE INSURANCE RESIDUAL MARKET (CAR)*****

PRINCIPAL PLACE OF BUSINESS

By submitting this application, I represent that the applicant's principal place of business is located in Massachusetts. Principal Place of Business, as it applies to the definition of an Eligible Risk, is defined as the chief or usual place of business. It is the corporation's nerve center, its center of direction, control, and coordination, the place where the principal officers generally transact business and the place to which reports are made and from which orders emanate. It is the place where the majority of executive and administrative functions are performed*. I understand that I am required to cooperate with and notify the insuring carrier of any change to information presented in the application, including information pertinent to the identified principal place of business, during the policy period. **I also understand that, if found responsible for fraud or material misrepresentation in the application or any extension or renewal of the policy, the insurance company can cancel or rescind all or part of the insurance and/or deny coverage of a claim pursuant to the provisions of the policy and applicable law.** By signing below, I hereby certify that all information provided herein and all other information submitted with the company's application is true and accurate.

Name of Business: _____

Address of Principal Place of Business: _____

Printed Name of Applicant's Authorized Representative: _____

Signature of Applicant's Authorized Representative: _____

Title: _____

Date: _____

Witness to the Signator and Signing above:

Signature of Producer: _____

Printed Name of Producer: _____

Agency Name: _____

Date: _____

MA Fraud Warning: "Any person who knowingly and with the intent to defraud any insurance company or another person files an application for insurance or statement of claim containing any material false information, or conceals for the purpose of misleading information concerning any fact material thereto, may be committing a fraudulent insurance act, which may be a crime and may subject the person to criminal and civil penalties."

---Documentation to be submitted to the insuring Servicing Carrier, copy to be retained by Producer---

* Commonwealth Automobile Reinsurers Rules of Operation, Chapter 2 - Definitions