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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE – MARCH 15, 2018

Members Present

Mr. Thomas DePaulo – Chair	Cabot Risk Strategies, LLC
Mr. Peter Chung	The Norfolk & Dedham Group
Ms. Sarah Clemens	MAPFRE U.S.A. Corporation
Ms. Sheila Doherty	Doherty Insurance Agency, Inc.
Ms. Mayre Hammond	Arbella Insurance Group
Mr. Coleman Johnson	The Hanover Insurance Company
Mr. Brian Lam	Safety Insurance Company
Mr. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Mr. Thomas Skelly, Jr.	Deland, Gibson Insurance Associates, Inc.
Mr. Barry Tagen	Pilgrim Insurance Company

Substituted for:

Not in Attendance:

18.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of February 8, 2018. The Records have been distributed and are on file.

18.04 Servicing Carrier Service Levels Subcommittee

At its last meeting, the Commercial Automobile Committee unanimously voted to adopt the recommendations of the Servicing Carrier Service Levels Subcommittee and recommend the adoption of proposed modifications to Rule 11.C.2. and Chapter III.E. of the Manual of Administrative Procedures to the Governing Committee. The proposed modifications define overall expectations for commercial Servicing Carrier service levels and procedures for the review of requests for reimbursement of extraordinary expenses.

Ms. Marian Adgate noted that at the Governing Committee's February 14, 2018 meeting, a Committee member, with the intent to further strengthen Servicing Carrier requirements and procedures relative to requests for reimbursement of incurred extraordinary expenses, presented suggested modifications to the proposed language. She stated that the suggested language included further strengthening of the language to specify that the extraordinary expense incurred for which the Servicing Carrier was requesting reimbursement also had to be an expense that was necessary to be incurred by the company in order to perform its obligations as a Servicing Carrier. Additionally, the suggested

modifications included the elimination of a sentence in the Manual of Administrative Procedures relative to the approval of an “expense not to exceed” amount due to concerns that a pre-approval type of process should not apply. Ms. Adgate noted that the Governing Committee agreed that further discussion of these issues was required and remanded the Rule and Manual language back to the Commercial Automobile Committee for further review.

The Committee addressed the addition of the requirement that the expenses incurred must be considered “necessary” in addition to “extraordinary”, with members expressing concern as to the appropriate party responsible for determining whether the expense was necessary. It was noted that since the word “necessary” was subjective in nature, language to specifically define it could not be incorporated into the Rule. However, the Committee did agree that it would be the Servicing Carrier’s responsibility to persuade the reviewing committee that the expenses being requested were both necessary and extraordinary in performing its duties as a Servicing Carrier.

The Committee also addressed the suggested removal of the “expense not to exceed” wording from Chapter III.E.2.b. of the Manual of Administrative Procedures. This language is similar to that in the existing defaulted broker expense procedures and was intended to provide a Servicing Carrier with the ability to come before a committee for approval of expenses prior to the Servicing Carrier actually incurring those expenses. The recommendation to eliminate this sentence was suggested out of the concern that having this type of pre-approval process may jeopardize the Servicing Carrier’s efforts to do its due diligence as a Servicing Carrier if the committee didn’t agree that the expense was extraordinary. The Committee expressed its concern that the timing and logistics of scheduling committee meetings may impact a Servicing Carrier’s ability to obtain a CAR committee’s approval in a timely manner, and that the sentence as written could potentially make it difficult for a Servicing Carrier to move forward in its efforts to manage the residual market. Accordingly, the Committee agreed that the pre-approval process should not be allowed and that the sentence should be removed.

Following significant discussion, the Committee recommended further editorial changes to Rule 11.C.2. and Chapter III.E. of the Manual of Administrative Procedures to clarify that an expense requested for reimbursement by a Servicing Carrier must be a specific, necessary and extraordinary expense, and to ensure consistency between the Rule and Manual of Administrative Procedures language. The Committee unanimously voted to recommend Governing Committee approval of the amended language.

18.07 Distribution of Residual Market Books of Business

Rule 13.C.2. requires CAR to perform a quarterly review of the distribution of ceded commercial written premium and, if necessary, permits a redistribution of residual market books of business to maintain equity among the Servicing Carriers. Redistribution may occur 12 reporting months from the effective date of the previous distribution with the redistribution performed no sooner than 60 days from the date of the review.

At its February 8, 2018 meeting, the Committee agreed that there exists a clear inequity among Servicing Carriers that needs to be addressed and that any redistribution effort should cause the least amount of disruption possible. Accordingly, staff was directed to evaluate current Servicing Carrier premium volume and prepare data reports for review by the Committee. Mr. Timothy Galligan reviewed the prepared exhibits with the Committee noting that in order to rebalance premium both in total and by class type among the four Servicing Carriers with the least amount of disruption, 26 producer reassignments with an associated written premium volume of \$19 million will be necessary. It was noted that 11 of the 26 producers have voluntary contracts with their new Servicing Carrier. The exhibits identified a summary of producer movement and the distribution of premium by class type before and after reassignment, using the latest written premium data through December 2017.

The Committee expressed concern that six of the producers to be reassigned had previously also been reassigned during the redistribution process occurring less than 18 months ago when Pilgrim replaced Travelers as a Servicing Carrier. Ms. Natalie Hubley indicated that regardless of how the reassignment process is modeled, it will be virtually impossible to reach the goal of minimizing disruption and maintaining equity by classification without impacting some of the producers that were reassigned to Pilgrim last year. She further noted that every effort has been made to assure that as many of the producers as possible had a prior relationship with the carrier to which it would be reassigned which limited the reassignment to the six producers.

It was the Committee's consensus that the numbers presented reflect a more equitable distribution both in premium volume and by class type and on a motion with 7 in favor and 2 opposed, the Committee recommended to the Governing Committee to move forward with staff's recommended redistribution as presented in the exhibits, for new and renewal policies effective July 1, 2018.

18.08 Commercial Servicing Carrier Annual Report

The Commercial Auto and Taxi/Limo RFPs require that Servicing Carriers provide an annual report outlining their strategies to depopulate the residual market and address market conditions, as well as the successes and challenges of those efforts. The Committee directed Staff to prepare Servicing Carrier Company Profiles and an outline of topics to be addressed by Servicing Carriers in their annual reports.

Ms. Wendy Browne presented to the Committee the proposed schedule for CAR's development of Servicing Carrier Company Profiles and the submission of Servicing Carrier Annual Reports. She noted that CAR will develop a profile containing basic market information for each Servicing Carrier. Additionally, in order for CAR and the Committee to monitor a Servicing Carrier's residual market performance, each Servicing Carrier will be required to prepare an annual report that addresses components of the Servicing Carrier program as noted in the RFP and the CAR Rules, as well as current concerns present in today's marketplace and company efforts undertaken to address these concerns.

The Committee discussed the information to be contained in these reports and suggested that a ceded loss count and the number of agents assigned to each Servicing Carrier be added to the information provided by CAR in the Servicing Carrier profile. Additionally, in order to provide the Servicing Carrier with information that may be beneficial in preparation of their profiles, the Committee suggested that the schedule be modified to push back the distribution date for the Servicing Carrier Company Profiles to May 1, 2018 and adjust the due date for the Servicing Carrier Annual Reports to June 1, 2018. Ms. Browne indicated that staff will rework the remainder of the schedule based upon those dates, including the scheduling of Servicing Carrier Annual Report presentations to the Committee. The Committee's report of its findings will be presented to the Governing Committee at its September 2018 meeting.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
March 26, 2018

ATTACHMENT LISTING

Docket #CAC18.02, Exhibit #2

Attendance Listing

Docket #CAC18.04, Exhibit #2

Proposed Modifications to Rule 11 and MAP Chapter III

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C. Settlement of Balances

1. CAR will issue quarterly summaries to all Members reflecting their cumulative balances. However, CAR will settle the cumulative balances relating to the current policy year following the close of the third quarter of the calendar year, or at a later date if so determined by the Governing Committee.
2. The Governing Committee, subject to the approval of the Commissioner, may ~~offer or allow~~ authorize reimbursement of a Servicing Carrier ~~reimbursement~~ in whole or in part for a specific, necessary and extraordinary expense incurred in ~~qualifying for, continuing performing its obligations as, or ceasing to be,~~ a Servicing Carrier. The Servicing Carrier must petition the Governing Committee for such relief and the expense must be actually incurred before reimbursement. Such expense must be explained by the Servicing Carrier and supported in such detail as required by the Governing Committee ~~and must be shown to be, and must be in its judgment a~~ necessary expense that is significantly in excess of the normal additional expense expected to be incurred by ~~the a~~ Servicing Carrier such that the expense could not have been reasonably contemplated by the Servicing Carrier in its acceptance of the terms of CAR's request for proposal for the current service period, and must be actually incurred before reimbursement. The Servicing Carrier must petition the Governing Committee for such relief.
3. The Governing Committee, subject to the approval of the Commissioner, may authorize reimbursement of Servicing Carriers for normal insurance business losses incurred in connection with CAR business. Such normal business losses shall be defined and designated by the Governing Committee but shall not include any loss or expense incurred as a result of fraud or dishonesty on the part of a Servicing Carrier's claims personnel including, but not limited to, independent adjusters and agents, and each Servicing Carrier shall hold CAR harmless from and reimburse it for any such loss or expense charged. The Servicing Carrier must petition the Governing Committee for such relief.

E. Request for Reimbursement of Extraordinary Expenses from Commercial Automobile or Taxi and Limousine Servicing Carrier Programs

A Servicing Carrier may be reimbursed in whole or in part for a specific, necessary and extraordinary expense incurred in performing its obligations as a Servicing Carrier. The Servicing Carrier must petition CAR for such relief and the expense must be actually incurred before reimbursement. Such expense must be explained by the Servicing Carrier in such detail as is requested and establish that the expense is necessary and significantly in excess of the normal additional expense that could reasonably have been contemplated by the Servicing Carrier in acceptance of the terms of CAR's request for proposal for the current service period.

1. Reimbursement Considerations

An advisory committee will be appointed to review a Servicing Carrier's petition for reimbursement and will make a recommendation to CAR's Governing Committee as to whether or not the Servicing Carrier qualifies for the reimbursement it requested or some portion thereof. Reimbursement of an extraordinary expense will be reviewed on an individual case basis.

2. Procedures

a. Request for Reimbursement

A Servicing Carrier must provide CAR with timely and reasonable notification that it is seeking reimbursement of extraordinary expenses involved in a matter it deems to be significantly in excess of costs that could reasonably have been contemplated in the expense allowance provision for the current Servicing Carrier program.

The Servicing Carrier must complete a Request for Reimbursement of Extraordinary Expenses form (Exhibit III-E-1) with a copy sent to the Commissioner of Insurance. The following additional information must also be provided:

- 1) A summary of the request.
- 2) A detailed description of the issue(s) directly responsible for the request and why the petitioner deems its efforts as being necessary and extraordinary, i.e. why the effort/expense is considered to be outside of the scope of services accepted by the carrier in response to CAR's Request for Proposal for

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Commercial Automobile or Taxi and Limousine Servicing Carrier Appointment.

- 3) A background of events, in chronological order, leading up to the request, including pertinent correspondence and documentation between the company(s), producer(s) and/or any other involved entity.
- 4) A summary of efforts undertaken by the Servicing Carrier to mitigate the impact to the residual market.
- 5) A detailed accounting of any incurred expenses directly related to the residual market issue by company employees and/or contracted service providers utilized by the company on a regular or routine basis that are alleged to be extraordinary. Provide detailed explanations as to why these specific efforts/costs are deemed to be necessary, significant and extraordinary.
- 6) An explanation for the need of any outside business, legal or other service provider contracted to specifically address resolution of the issue(s) along with the anticipated costs and an accounting of any expenses already incurred that are directly related to the issue presented by the Servicing Carrier.
- 7) Confirmation that the Commissioner of Insurance has been copied on the request.

b. Advisory Committee Review

The appointed advisory committee will be charged with determining whether or not the Servicing Carrier had diligently used usual and customary procedures for managing residual market business, including effective oversight of agency/company business submissions (underwriting, loss control, etc.) and whether the company diligence was timely in addressing issues that may have otherwise held costs to lower amounts. The petitioning Servicing Carrier must demonstrate that it qualifies for relief and address why the expected and/or incurred extraordinary costs could not have been anticipated in the Servicing Carrier's acceptance of the service terms and the expense allowance provision resulting from Servicing Carrier selection process. The committee's presumption prior to review of the request will be that expense allowance expectations for residual market business were intended to be at a level that would

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anticipate and require a higher level of management versus voluntary business. A decision to authorize reimbursement and the amount of reimbursement will not be based solely on whether the Servicing Carrier's efforts were justified but also on whether the efforts are deemed to have been extraordinary and the company took appropriate steps to mitigate negative impact to the residual market.

The advisory committee will require any level of detail it may deem necessary to support the amount of the requested reimbursement. The Servicing Carrier bears the burden of providing adequate documentation and justification for all requested expense amounts. Reimbursable expenses must be already paid, directly related to the residual market issue, and quantifiable and verifiable prior to reimbursement and are subject to the further approval required in 2.d. and 2.e. of this Section.

c. CAR Review of an Approved Expense Reimbursement

To the extent that clarification or revision of the original requested reimbursement amount occurs as a result of advisory committee deliberations, CAR staff will verify that all documentation supports the recommended reimbursement amounts pursuant to the committee discussion.

d. Governing Committee and Commissioner of Insurance Approval

The Governing Committee will consider whether to authorize reimbursement of all or any part of the amount requested. Any decision by CAR's Governing Committee to approve reimbursement of extraordinary expenses, will be sent to the Commissioner of Insurance for review.

e. Reimbursement by CAR

If approved by the Commissioner of Insurance, CAR staff will review final expense documentation to confirm compliance with the approved reimbursement amount and approved reimbursement payments will be processed as bulk adjustments to the Servicing Carrier's Settlement of Balances and the Governing Committee will be notified.

