



NATALIE A. HUBLEY  
PRESIDENT

# COMMONWEALTH AUTOMOBILE REINSURERS

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## RECORDS OF MEETING

### COMMERCIAL AUTOMOBILE COMMITTEE – JUNE 12, 2018

#### Members Present

Mr. Thomas DePaulo – Chair	Cabot Risk Strategies, LLC
Mr. Harris Berenson <sup>(1)</sup>	The Hanover Insurance Company
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. 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:

<sup>(1)</sup>Mr. Coleman Johnson

Not in Attendance:

N/A

#### 18.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of April 2, 2018. The Records have been distributed and are on file.

#### 18.06 Commercial Automobile Residual Market Standards Subcommittee

Mr. Thomas DePaulo informed the Committee that he had received a letter from Ms. Dana Casher, counsel to Point Insurance Agency, Inc. relative to the issues being discussed by the Committee at today's meeting. Ms. Casher presented her concerns to the Committee stating that while the Subcommittee's charge is to establish consistent residual market underwriting procedures among Servicing Carriers, there are two areas in which she believes further development is required in order to achieve the stated goal. She noted that the standards adopted for validating the existence of a business entity leaves it up to a Servicing Carrier to obtain one or more forms of documentation to establish eligibility. However, this may provide room for inconsistency depending on a particular Servicing Carrier's requirements. Ms. Casher opined that without defining the circumstances under which a Servicing Carrier may require more than one form of documentation, consistency among carriers is impacted. Additionally, she indicated that although the ineligible risk database will share information on risks denied coverage in the commercial residual market, the Committee should further define how a Servicing Carrier may use that information, specifically the purpose of the database and those circumstances under which an ineligible risk may or may not be written by another Servicing Carrier.

Mr. John Olivieri, Chair of the Commercial Automobile Residual Market Standards Subcommittee, provided the Committee with a summary of the issues discussed by the Subcommittee and which were recommended to the Commercial Automobile Committee for approval at the Subcommittee's April 25, 2018, May 9, 2018 and May 30, 2018 meetings. He noted that after each Subcommittee meeting, a developed list of prioritized issues impacting the commercial residual market has been updated to reflect the current status of the Subcommittee's deliberations.

The Subcommittee is recommending Commercial Automobile Committee approval in regard to the following issues:

#### Standards for Determining and Substantiating Principal Place of Business

Mr. Olivieri stated that at the Subcommittee's May 9, 2018 meeting, Servicing Carrier and Exclusive Representative Producer standards and a certification form to be used for validating a risk's principal place of business were unanimously approved.

Mr. John Metcalfe presented to the Committee the Subcommittee's recommended documents which define standards requiring the validation of a risk's principal place of business, securing a certification by the risk, and conducting audits pursuant to Rule 10 of CAR's Rules of Operation. Mr. Metcalfe pointed out that the underwriting tools and opportunities noted in the standards serve as evaluation tools to assist Servicing Carriers in ascertaining a risk's eligibility in the commercial residual market and in validating the risk's declared principal place of business. He indicated that the items are not designed to be absolute in terms of risk qualification, but are meant to provide a Servicing Carrier with suggestions for evaluating whether or not a risk is eligible for the commercial market, consistent with principal place of business.

On a unanimous vote, the Committee recommended the Servicing Carrier Standards for Validating the "Nerve Center" Principal Place of Business, the Exclusive Representative Producer Standards for Determining the "Nerve Center" Principal Place of Business and the Principal Place of Business Certification Form to the Governing Committee for approval.

#### Non-Fleet Private Passenger Types

Mr. Olivieri stated that at its May 30, 2018 meeting, the Subcommittee unanimously approved Servicing Carrier and Exclusive Representative Producer standards, a certification form and an operator exclusion endorsement 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.

Mr. Metcalfe presented to the Committee the Subcommittee's recommended documents and indicated that the standards provide Servicing Carriers with a tool to evaluate whether the risk meets the criteria as a business/commercial entity. He indicated that the Subcommittee agreed that the certification form must be used for all new business applications, but may also be used for renewal business at the discretion of the Servicing Carrier. Mr. Metcalfe further pointed out that that the underwriting tools and opportunities noted in the standards are not designed to be absolute in terms of risk qualification, but are meant to provide a Servicing Carrier with suggestions for evaluating whether or not a risk is eligible for the commercial market as a business entity.

The Committee discussed the underwriting tools and opportunities that Servicing Carriers may take advantage of to validate business entity and agreed that providing Servicing Carriers with defined documentation options removes the subjective nature of the current validation processes among Servicing Carriers. The Committee agreed that in some situations, depending upon the individual characteristics of

the risk being submitted, a Servicing Carrier may need the flexibility to request additional documentation from the risk, however, in most situations only one source of documentation would be required.

On a unanimous vote, the Committee approved the Servicing Carrier and Exclusive Representative Producer Standards for Non-Fleet Private Passenger Type Classifications, the Non-Fleet Private Passenger Type Certification Form, the Operator Exclusion Form and Rule 31 – Operator Exclusion Form of the Commercial Automobile Insurance Manual and recommended their adoption by the Governing Committee.

### Producer Requirements

Mr. Metcalfe noted that the Subcommittee had discussed various suggested enhancements to the existing producer requirements, including those pertaining to work experience, education, production and termination requirements. The Subcommittee agreed that it would be beneficial to enhance producer work experience requirements and is recommending to the Committee that prior to action being taken on the producer's application for a commercial Servicing Carrier appointment, a new producer be required to provide evidence of work experience reflective of a minimum of 12 months (increased from 6 months) with a licensed producer or Member, with the applicant's efforts primarily devoted to commercial insurance in the Massachusetts motor vehicle insurance market. He identified the associated modifications that staff has made to Rule 14 – Exclusive Representative Producer Requirements, further noting that the rule has also been modified to include the requirement that the producer must submit completed certification form(s) as applicable, with the application for insurance.

The Committee discussed the proposed rule amendments and members expressed concerns in several areas including whether the producer should be required to identify experience in specific commercial classifications in order to write that type of business, whether manual updates are needed to describe the validation process, whether the certification process should be more robust for a terminated producer upon reentry into the market, and whether new producers should be required to come before a CAR committee in order to present its case for appointment. On a motion with eight in favor and one opposed, the Committee agreed to approve the proposed modifications to Rule 14 and recommend their adoption by the Governing Committee, with the anticipation that the Subcommittee will continue to work to address the Committee's additional comments.

### Information Sharing

Ms. Wendy Browne stated that at prior meetings, the Subcommittee approved a proposal for the development of an online information sharing system to be used by 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 and the Subcommittee directed staff to move forward on developing the system. She noted that this effort is also designed as a communication and evaluation tool, in conjunction with the Subcommittee's efforts to address consistency among Servicing Carriers, and will be used by Servicing Carriers in the handling of commercial residual market risks. Ms. Natalie Hubley informed the Committee that initially the database will only be made available to Servicing Carriers, however, if appropriate, consideration may be given to allowing additional access to the database for at a later date.

Ms. Marian Adgate noted that staff has incorporated procedures for reporting to the database in Chapter III – Servicing Carrier Requirements of the Manual of Administrative Procedures and she presented the Subcommittee's recommended language to the Committee. The Committee discussed the language presented and it was agreed that the wording relative to the timing for reporting to the database be further amended to indicate that reporting the declination, non-renewal or cancellation to the database must be within two days of the issuance of the notice to the risk.

On a unanimous vote, the Committee approved the proposed modifications to Chapter III, as amended, and recommended their adoption to the Governing Committee.

### Covered Automobiles

Ms. Hubley stated that the Subcommittee is recommending that commercial residual market coverage be restricted to those policies written on a specified car basis only, noting that policies written on the Business Auto Coverage Form with designated ISO symbol codes of 1 (any auto) would no longer be cedeable to CAR. She explained that this recommendation is made not only to eliminate the potential for additional exposure to the residual market but to ensure consistent procedures among Servicing Carriers. She further noted that few policies are written on a composite rating, gross receipts or mileage basis, however, the commercial pool had recently been exposed to a stacking of coverage on a policy written on the Business Auto Coverage Form on a composite rate basis. To document that residual market coverage is limited to only those policies written on the Business Auto Coverage Form and with designated ISO symbol codes of 7 (specifically described autos), 8 (hired autos), and 9 (non-owned autos), the Subcommittee has approved updates to the impacted CAR rules and manuals. Ms. Adgate reviewed with the Committee the Subcommittee's approved modifications to the Rules of Operation, Commercial Automobile Insurance Manual and Manual of Administrative Procedures.

The Committee unanimously approved the proposed modifications to Rule 6 of the Rules of Operation, Rules 3, 55, 75 and 126 of the Commercial Automobile Insurance Manual and Chapter V of the Manual of Administrative Procedures as presented and recommended their adoption by the Governing Committee.

In conclusion, the Committee discussed the timeframes for implementing the Servicing Carrier and producer standards and use of the certification forms. Staff noted that implementation is subject to approval by the Governing Committee and Division of Insurance and although the certification forms and exclusion may not be used until they are formally approved, Servicing Carriers may continue to utilize their own underwriting tools to verify a risk's principal place of business and eligibility in the commercial residual market. The Committee agreed that for consistency among Servicing Carrier and producers, the implementation of certification forms and the operator exclusion endorsement will be 30 days after notification from CAR, via CAR Bulletin, of the Division of Insurance's approval.

MARIAN ADGATE  
Corporate Documentation Specialist

Boston, Massachusetts  
June 15, 2018

**ATTACHMENT LISTING**

Docket #CAC18.02, Exhibit #4

Attendance Listing



