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ADDITIONAL INFORMATION

TO MEMBERS OF THE MAIP STEERING COMMITTEE

FOR THE MEETING OF:

Thursday, September 12, 2019 at 1:00 p.m.

MSC

19.10 MAIP Non-Compliance Program – Review of ARP Payment Violations

Information previously provided by staff indicated that a high percentage of violations reported by the industry involve payment issues and include the remitting of payments to the carrier on a timely basis, submitting sufficient premium down payments and returning unearned commissions. The Committee discussed various options for improving the process and reducing the number of violations, including the discussion of electronic transfer payment options.

To assist the Committee in its continued discussion relative to the extent of these issues, staff was requested to prepare an analysis of producer violation data in order to determine whether agency payment issues are a market-wide problem or limited to just a few producers. Attached for the Committee's consideration are documents profiling compliance data relative to the concerns discussed by the Committee. (Docket #MSC19.10, Exhibit #1)

JOHN METCALFE
Director – Residual Market Services

Attachment

Boston, Massachusetts
August 30, 2019

**Top 5 Assigned Risk Producers with Payment Violation Submissions
July 1, 2018 thru June 30, 2019**

| I - Violation Type - 2 | Agency # | Applications submitted | Total Violation | Valid Violations | % Valid to Total Violations | % Valid Violations to Assignments |
|---|----------|------------------------|-----------------|------------------|-----------------------------|-----------------------------------|
| Insufficient down payment submitted as specified in CAR Rule 28 | A | 285 | 15 | 10 | 67% | 4% |
| | B | 125 | 7 | 7 | 100% | 6% |
| | C | 369 | 6 | 3 | 50% | 1% |
| | D | 444 | 5 | 5 | 100% | 1% |
| | E | <u>94</u> | <u>4</u> | <u>4</u> | <u>100%</u> | <u>4%</u> |
| | Total | 1317 | 37 | 29 | 78% | 2% |
| | | | | | | |
| II - Violation Type - 9 | Agency # | Applications submitted | Total Violation | Valid Violations | % Valid to Total Violations | % Valid Violations to Assignments |
| Failed to remit payment on a timely basis and/or check or money order not made directly payable to the Assigned Risk Company | F | 397 | 11 | 4 | 36% | 1% |
| | B | 125 | 7 | 7 | 100% | 6% |
| | G | 161 | 4 | 4 | 100% | 2% |
| | H | 210 | 5 | 2 | 40% | 1% |
| | I | <u>151</u> | <u>4</u> | <u>3</u> | <u>75%</u> | <u>2%</u> |
| | Total | 1044 | 31 | 20 | 65% | 2% |
| | | | | | | |
| III - Violation Type - 10 | Agency # | Applications submitted | Total Violation | Valid Violations | % Valid to Total Violations | % Valid Violations to Assignments |
| Failed to return unearned commission | J | 0 | 14 | 0 | 0% | 0% |
| | K | 3 | 5 | 0 | 0% | 0% |
| | L | 0 | 5 | 1 | 20% | 100% |
| | M | 17 | 5 | 1 | 20% | 6% |
| | N | <u>22</u> | <u>3</u> | <u>1</u> | <u>33%</u> | <u>5%</u> |
| | Total | 42 | 32 | 3 | 9% | 7% |
| | | | | | | |
| *Industry (ALL violations) | | 33390 | 443 | 249 | 56% | 1% |

Status - ARP Compliance Actions
(Premium Violations July 1, 2018 - June 30, 2019)

| Agency | Action(s) |
|--------|---|
| A | ARP was placed on probation twice for exceeded the 1 month threshold during this period and is currently compliant |
| B | Has been suspended 3 times during this period. Twice for exceeded the 1 month threshold and once for a Type 10 violation: failure to return unearned commissions. The ARP is currently compliant. |
| C | N/A |
| D | N/A |
| E | N/A |
| F | ARP was placed on probation for exceeding the 1 month threshold and is currently compliant. |
| G | Suspended once for Type 10 violation: failure to return uncontested unearned commission |
| H | N/A |
| I | Suspended once for Type 10 violation: failure to return uncontested unearned commission |
| J | N/A |
| K | Suspended once for Type 10 violation: failure to return uncontested unearned commission |
| L | N/A |
| M | Suspended once for Type 10 violation: failure to return uncontested unearned commission |
| N | Suspended twice for Type 10 violation: failure to return uncontested unearned commission |
| * | Type 10 violations warrant immediate suspension under the program |
| ** | All ARPs suspended for Type 10 violations were reinstated subsequent to the return of unearned commission payments by the ARP |
| *** | N/A means no action was taken against the ARP |

Assigned Risk Producer Compliance Review Process

A summary of the MAIP noncompliance program was provided to the MAIP Steering Committee at its April 23, 2019 MAIP meeting. At the June 6, 2019 meeting, the Committee requested additional profile detail of ARP violation submissions concerning premium payments and commissions. A brief summary of the ARP violation and compliance review process is provided below as well as additional data regarding the MAIP Noncompliance program.

ARP Compliance Review Comments:

- Each violation submission is reviewed and evaluated on its own merits.
- An ARP has 20 calendar days to respond to an alleged violation.
- Documentation supporting or disputing the alleged violation may be attached to the violation submission, by the ARP or ARC, at any time during the review process.
- Once findings have been entered on all of the violations for the review period, the violations are measured against thresholds outlined in Chapter II Part B. of the Assigned Risk Producer Procedure Manual.

ARP Violation Compliance:

1) Compliance Review:

Once an ARP responds to a reported violation or the 20-calendar day response period has elapsed, CAR will review the documentation provided by the ARC and/or ARP and will determine the validity of the reported violation.

On a monthly basis, CAR shall assess each ARP's performance to determine whether the number of validated violations exceeds 10% of the number of applications submitted in any one month and at least three violations within that month.

CAR will also identify those ARPs that have had validated violations reported in each month of a consecutive three-month period, but the volume of those violations does not exceed the monthly compliance threshold.

2) Warning – Remedial Action Required

If the ARP's performance in the latest calendar month exceeds the established tolerances, CAR will notify the ARP of the failure to comply with the Rules of Operation and request the producer to immediately institute corrective measures.

The producer will be warned that subsequent failure to comply with the standard for each month within the following 90-day period will result in an immediate suspension of the agency certification for a period of not less than one month.

If the ARP's performance over a consecutive three-month period indicates that validated violations exist in each month, and the volume of those violations exceeds 3% of the number of applications submitted for the three month period, CAR shall notify the ARP of its review findings and require the ARP to address remedial action in a meeting with CAR staff.

3) Suspension

If the ARP remains in compliance for the entire 90-day probation period, the review process will begin again. However, if the ARP exceeds the standard for three or more non-consecutive months in any 12-month period, the result will be an immediate suspension of the agency certification for a period of not less than one month.

Non-compliance during the 90-day probation period will result in the immediate suspension of the agency certification for a period of not less than one month or not more than six months.

4) Immediate Suspension and/or Decertification

CAR will immediately suspend certification in cases deemed to be valid, for a period of not less than one month or not more than six months for any violations involving falsification of information for coverage, misrepresentation of rating information, participation in the false reporting of claims, mishandling of premium funds or failure to return uncontested unearned commission within the specified timeframe. In all cases, the severity of the violations will be taken into consideration. CAR may revoke the certification of the producer if the violations are deemed numerous and/or egregious. Notification of decertification will be provided to all ARCs, the RMV and the Division of Insurance.

The entry of a finding by a court of competent jurisdiction that the ARP has engaged in fraudulent activity in connection with motor vehicle insurance will result in immediate decertification.

Failure to renew or maintain an active producer's license will result in the immediate suspension of access to the MAIP Policy Application and may result in the decertification of the ARP. Note that CAR will reinstate access to the MAIP Policy Application upon receipt of a copy of a valid and current producer's license in good standing.