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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE RESIDUAL MARKET STANDARDS SUBCOMMITTEE – JULY 17, 2018

Members Present

Mr. John Olivieri, Jr. – Chair
Ms. Elizabeth Brodeur⁽¹⁾
Ms. Sarah Clemens
Ms. Sheila Doherty
Mr. Barry Tagen
Mr. David Zawilinski⁽²⁾

J.K. Olivieri Insurance Agency, Inc.
Safety Insurance Company
MAPFRE U.S.A. Corporation
Doherty Insurance Agency, Inc.
Pilgrim Insurance Company
Arbella Insurance Group

Substituted for:

⁽¹⁾Mr. Brian Lam

⁽²⁾Ms. Mayre Hammond

Not in Attendance:

Mr. Coleman Johnson
Mr. Thomas Skelly, Jr.

The Hanover Insurance Company
Deland, Gibson Insurance Associates, Inc.

18.01 Records of Meeting

The Subcommittee unanimously voted to approve the Records of the Commercial Automobile Residual Market Standards Subcommittee meeting of May 30, 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 reported that the Principal Place of Business Certification Form was placed on file by the Division of Insurance and the Non-Fleet Private Passenger Type Certification Form, Operator Exclusion Form and update to Rule 31 of the Commercial Automobile Manual are currently under review at the Division of Insurance. Additionally, modifications to the Rules of Operation pertaining to covered autos (Rule 6) and producer requirements (Rule 14) have been filed with the Division of Insurance. Ms. Browne further advised that CAR staff is currently developing the information sharing database and will provide the industry with additional information, including reporting requirements, via CAR Bulletin, in the near future.

For today's meeting, Ms. Browne indicated that the Subcommittee should begin to discuss potential modifications to the Commercial Automobile Manual to address consistency issues in the determination of radius of operation and rating territory. Additionally, the Subcommittee should consider further

enhancements to the existing producer requirements and revisit its review of coverage limits as respects cedeable limits available in Massachusetts.

18.09 Producer Requirements

Mr. John Metcalfe provided the Subcommittee with an overview of CAR's producer certification process. He stated that upon receipt of a request for certification or appointment, the producer is sent an introductory email containing information that the producer needs to be aware of, including applicable rules, required applications and forms as well as other information needed to review and process the request. He noted that the applicable producer requirements and appointment and eligibility criteria are contained in Rule 14 for commercial business and Rule 31 for private passenger business and that a producer's compliance with established requirements and criteria forms the foundation for CAR's review. CAR will review the information provided to identify any potential concerns, including any existing association with another agency. Applicants meeting the established requirements are eligible for certification and assignment to a Servicing Carrier.

The Subcommittee expressed several concerns; that the process for validating a producer's work experience may not be sufficiently robust, and that proper oversight by a licensed producer at each agency location may not exist for each application submitted.

The Subcommittee specifically discussed the existing procedure for verifying a producer's work experience and noted its concern that the required attestation letter may not contain enough information to fully confirm a producer's experience with commercial auto. Mr. Metcalfe further noted that at the last meeting, the Subcommittee had also previously expressed concern with whether an appointed producer has the appropriate qualifications to write certain commercial classifications and whether CAR is able to verify the producer's specific market involvement and expertise. Discussion ensued on whether additional testing or educational requirements would be beneficial, but Members also noted that it is not a common occurrence for producers to write a risk for which the producer has no experience, producers typically do not tend to write business for which they are not qualified and that business tends to migrate to those producers that are familiar with the particular segment of the market. Also noted was that it does not appear that the residual markets in any other state segment commercial business by class and that the bigger issue may be that some producers may not have the qualifications to accurately validate a risk's eligibility for placement in the commercial residual market. The Subcommittee agreed that that the certification forms and procedures recently approved and put into use should significantly address this concern.

Accordingly, the Subcommittee agreed that CAR's producer evaluation process should be enhanced to include further follow up questions to assure that a producer has the proper experience and is qualified to write business in the commercial market. Specifically, the Subcommittee agreed that it would be beneficial for the signatory on the experience letter to provide additional information to assist in the verification of a producer's experience in this regard, including years and level of experience working in the agency and with commercial risks. Staff indicated that CAR's application processing procedures would be amended to obtain this information.

To address the Subcommittee's concerns relative to the level of review and supervision provided at each agency office location by a licensed producer, the Subcommittee directed staff to enhance the application for appointment/certification to include questions that ascertain the agency's process for assuring proper licensed producer oversight in all agency office locations and on all submitted applications for insurance.

Additionally, for the next meeting, Mr. Metcalfe suggested that the Subcommittee discuss the termination language contained in Rule 14 to consider whether enhancements would benefit the process in

those circumstances when a former employee from a terminated agency establishes a new agency and submits a subsequent application for appointment. Mr. Metcalfe also suggested that the Subcommittee discuss the market provision previously in place prior to MAIP and whether a similar concept might be appropriate for commercial business.

18.12 Radius of Operation and Rating Territory

Ms. Natalie Hubley provided the Subcommittee with background information relative to the determination of radius of operation and rating territory. She noted that in 2013, a previous update made to Rule 72 – Public Transportation of the Commercial Automobile Manual modified the starting point for determination of radius of operation to the automobile’s registration in place of principal garaging. The Subcommittee considered the use of registration versus garaging and agreed that principal garaging better represents the origin point in determining radius.

Ms. Hubley noted that also during the 2013 discussions, the Rule was updated to clarify the method for determining rating territory for non-zone rated risks, eliminating the “customarily operated” terminology which had proved to be problematic in its application from a consistency standpoint among Servicing Carriers. The intent of the clarification was that the rating territory assigned will be the highest rated territory through or which the automobile operates unless the risk is able to demonstrate that 80% or more of the automobile’s operation is in a single lower rated territory. During the review process at the Division of Insurance, and in conjunction with a restructuring of the Rule’s format, the language placed on file was somewhat different than that proposed by the Governing Committee, and it may result in an inconsistent determination of rating territory among Servicing Carriers. Ms. Hubley noted that the Rule 72 modifications presented to the Subcommittee today represents the original intent of the Governing Committee and she requested the Subcommittee determine whether sufficient clarity is provided and whether the process for determining rating territory is appropriately defined.

Mr. Barry Tagen opined that depending on vehicle use classification, rating territory may be more appropriately determined based upon garaging versus operation. He indicated that he would provide a recommendation for amending Rule language, for review by the Subcommittee at its next meeting.

Ms. Hubley stated that for the next meeting, based on the Subcommittee’s discussions staff will provide further suggested modifications to the radius of operation and rating territory sections of Rule 72. Additionally, she noted that updates to some areas of the zone rating definition that appear to have been incorrectly written in the previous version of Rule 72 will be required.

18.13 Review of Coverage Limits

Ms. Wendy Browne noted that at the last Governing Committee meeting, discussion took place on the review performed relative to cedeable limits, with specific questions arising relative to limits offered by CAR versus other residual markets. The Governing Committee requested the Subcommittee to revisit the cedeable limits issue and accordingly staff prepared additional information to assist the Subcommittee in its review.

Ms. Browne noted that the exhibit prepared identifies those Bodily Injury, Property Damage and Combined Single Limit losses over \$500,000, for effective years 2016-17, and further pointed out that all of the largest losses occurred in the Combined Single Limit category with the bulk of the large losses occurring in the bus or truck classifications. The Subcommittee questioned whether other states’ plans provide for coverage to satisfy financial responsibility laws, or if risks are required to seek the additional coverage through surplus lines markets. It was also noted that for the classes that are not busses or trucks,

CAR does offer some limits that are higher than those offered by the residual markets in other states. For the next meeting, the Subcommittee directed staff to prepare information summarizing the limits offered in other states' plans.

MARIAN ADGATE
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Boston, Massachusetts
July 30, 2018

