



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110

www.commauto.com

617-338-4000

RECORDS OF MEETING

COMMERCIAL AUTOMOBILE RESIDUAL MARKET STANDARDS SUBCOMMITTEE – AUGUST 14, 2018

Members Present

Mr. John Olivieri, Jr. – Chair
Ms. Sarah Clemens
Ms. Sheila Doherty
Ms. Mayre Hammond
Mr. Brian Lam
Mr. Thomas Skelly, Jr.
Mr. Barry Tagen
Mr. Sean Thompson⁽¹⁾

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

Substituted for:

⁽¹⁾Mr. Coleman Johnson

Not in Attendance:

N/A

18.01 Records of Meeting

The Subcommittee unanimously voted to approve the Records of the Commercial Automobile Residual Market Standards Subcommittee meeting of July 31, 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. For today's meeting, Ms. Browne indicated that the Subcommittee should continue to discuss foreign licensing requirements, additional enhancements to the existing producer requirements and the development of a market need concept for new producer appointments. The Subcommittee should also continue to discuss potential modifications to the Commercial Automobile Manual with respect to the determination of radius of operation and rating territory and continue its discussion of cedeable coverage limits available in Massachusetts. She further advised the Subcommittee that it is anticipated that the Ineligible Risk Database will be ready for implementation in October 2018.

Ms. Browne noted that at the last meeting, the Subcommittee inquired about the signature requirements for the certification and operator exclusion forms, and specifically whether it is sufficient for the Servicing Carrier to accept an "on file" signature. Mr. Stephen Torres, CAR counsel, indicated that as both forms have signature lines it is a requirement to have signatures on both. As specified in the published

standards, the signed certification forms and endorsement are required at the time of application and a copy must be submitted to the Servicing Carrier with the application. Responding to the Subcommittee's concerns relative to maintaining consistency among Servicing Carriers, Mr. Torres also noted that nothing would prohibit the producer from being in possession of the signed forms as long as the signature exists and could be produced at the time of a claim, or when otherwise needed. He further noted that at the discretion of the Servicing Carrier, it would be acceptable for either the producer or the Servicing Carrier to maintain the signed forms.

Mr. Barry Tagen requested that the Subcommittee add to the ongoing list of commercial issues, a further review of the eligible risk criteria. He commented that, while the recent amendments to the definition of principal place of business and the addition of the certifications strengthen the tools to validate eligibility under the current definition, CAR should consider adding a requirement for vehicle operations in Massachusetts. Mr. Tagen suggested that staff provide a summary of the eligibility criteria in other states' plans with respect to multi-state vehicle risks in order that the Subcommittee can evaluate whether the CAR definition could be amended to require the risk to have operations in Massachusetts.

Finally, Ms. Marian Adgate identified modifications made to Chapter V – Premium of the Manual of Administrative Procedures in conjunction with the Division of Insurance placing the Principal Place of Business and Non-Fleet Private Passenger Type Certification forms and the Operator Exclusion Endorsement on file. She noted that the certification forms and exclusion were added to the chart of forms and endorsements contained in the chapter and minor clean-up of the chapter wording was made for clarification and consistency. The Subcommittee unanimously voted to approve a motion to accept the proposed updates to Chapter V as presented.

18.08 Standards for Validating Non-Fleet Private Passenger Type Risks

Mr. Metcalfe reviewed with the Subcommittee eligibility information from the New Jersey Commercial Automobile Insurance Plan relative to applicants with foreign driver's licenses and requested the Subcommittee to consider whether similar language should be added to CAR's Rules of Operation. He noted that currently, to improve a carrier's ability to confirm eligibility, CAR collects information on the certification form relative to when an operator with an acceptable foreign driver's license arrived in the United States. The Subcommittee may wish to consider whether a more detailed definition of a foreign licensed driver would be beneficial for addressing consistency in the handling of these risks among the Servicing Carriers, to further confirm a driver's eligibility for the Massachusetts commercial residual market.

Discussion ensued on CAR's ability to incorporate into its Rules, criteria similar to that of the New Jersey Plan. Mr. Torres advised that since the United States is a party to the 1949 Road Traffic Convention, foreign visitors are legally able to drive on the roads of the Commonwealth on a foreign driver's license for up to one year from the date of arrival in the United States. Ms. Natalie Hubley commented that if the Subcommittee agrees that the eligibility criteria with respect to foreign licensed drivers should be clarified to ensure consistency, any proposed amendments must be also be consistent with existing registry policies.

For the next meeting, the Subcommittee requested CAR counsel to comment on any potential constraints on CAR's authority to amend the current eligibility definition to address the foreign license issue.

18.09 Producer Requirements

At the last meeting, the Subcommittee discussed whether a market need requirement should be incorporated into the eligibility criteria for new Exclusive Representative Producers and requested that staff provide additional information on historical requirements involving a market need requirement as well as demographic data relative to current agency locations.

Mr. Metcalfe provided the Subcommittee with information relative to the market need requirement that was in place prior to MAIP and walked through several exhibits of profile information to identify for the Subcommittee the current status of the commercial market. He noted that of the 1,622 producers writing commercial automobile business in Massachusetts, 1,325 have a Servicing Carrier for residual market business. Of those 1,325 producers, there are 51 producers currently without a voluntary commercial contract that are also writing residual market business. The Subcommittee questioned where these producers are located and whether they are fulfilling a need in underserved areas. Discussion ensued with some members suggesting that a producer should be required to have a voluntary contract in order to receive a commercial appointment to a Servicing Carrier. Members also noted that a high percentage of non-fleet private passenger type business is written by a small percentage of producers. The Subcommittee agreed that it would be helpful for staff to provide additional detail relative to the 51 producers, including loss ratios and a profile of the number of total producers in the towns in which those producers are located. Members were requested to provide Mr. Metcalfe with any additional information and criteria that they wish to be included on the reports for discussion at a future meeting.

Finally, Mr. Metcalfe noted that based upon comments made by the Subcommittee at its last meeting, staff has made minor amendments to the application for producer appointments/certifications to obtain additional information relative to the availability of a licensed producer to oversee insurance transactions at each agency office location.

18.12 Radius of Operation and Rating Territory

At the last meeting, Mr. Tagen provided the Subcommittee with proposed suggestions relative to determining rating territory by garaging or operation for non-zone rated risks, based upon vehicle use classification. Subcommittee members had indicated that they wanted to further review Pilgrim's suggestions with their company staff and agreed to continue discussion relative to this topic at today's meeting.

Mr. Tagen indicated that there are four vehicle types for which rating territory is currently determined based upon operation but that he believes should be based upon where the vehicle is garaged. These include school, church and inter-city buses and social service agency automobiles. Significant Subcommittee discussion ensued with the Subcommittee stressing the importance of maintaining consistency among Servicing Carriers in determining rating territory while obtaining the accurate rate for the risk. Specific scenarios were discussed including the determination of rating territory for the inter-city and school bus classifications. Some members opined that rating territory for a school bus owned by a town should be determined based upon where it operates, however, rating territory for a school bus owned by a contractor whose origin may be in another town should potentially be determined based upon where it's garaged. Other members opined that rating territory for all non-zone rated risks should be determined based upon where the vehicle is garaged unless a certain percentage of operation is in another territory.

The Subcommittee discussed the methodology by which rating territory should be determined in instances where the public vehicle travels through several territories on its way to the terminus point. Members agreed that the rule must appropriately identify the exposure of the risk and enable consistent measurement by all Servicing Carriers. Indicators such as miles driven, time spent, and trips to terminus

were discussed. In addition, the Subcommittee members discussed an appropriate measure for determining rating territory when a percentage of the vehicle's operation is outside of the highest rated territory.

After discussion, the members agreed to further consult with their underwriting departments and provide feedback to staff with respect to potential indicators and suggested measures in order that the Subcommittee can define an appropriate default procedure and standards for validation.

18.13 Review of Coverage Limits

At its last meeting, the Subcommittee requested that staff prepare a summary of prior committee discussion that had taken place relative to this issue.

Ms. Marian Adgate reviewed this issue with the Subcommittee and noted that in early 2004, in conjunction with the development of the Limited Servicing Carrier program, the Commercial Automobile Subcommittee reviewed available cedeable liability limits and recommended that the \$1 million limit be lowered to \$500,000. Upon review of the recommendation by the Commercial Automobile Committee, the reduction was approved but with a delay in its implementation for 24 months, to January 1, 2008 so that CAR could perform further evaluation while allowing the excess markets to emerge. Modifications to Rule 6, identifying the reduction in limits were subsequently approved by the Division of Insurance. However, prior to the implementation date, CAR committees reviewed this issue once again and amid concerns of market disruption, the cedeable limits were raised back up to \$1 million, Rule 6 was accordingly updated and the modifications were approved by the Division of Insurance.

Those Subcommittee members in favor of reducing the cedeable limits cited concerns that CAR's generous coverage options provide additional incentive for out-of-state risks to seek coverage in CAR and that those risks are contributing significantly to the growth of the residual market and the deteriorating financial results. Those opposed noted that the majority of risks with substantial losses are mandated to carry the higher limits due to financial responsibility laws. In addition, those opposed opined that the limits in other states are inadequate by today's economic standards and expressed concern relative to the market disruption that would result from a reduction in available cedeable limits. After discussion, the Subcommittee members agreed to table consideration of the cedeable limits until the impact of the reforms recently adopted and currently under consideration can be evaluated.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
September 4, 2018

ATTACHMENT LISTING

Docket #CRMS18.02, Exhibit #9

Attendance Listing

