



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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## RECORDS OF MEETING

### COMMERCIAL AUTOMOBILE COMMITTEE – APRIL 26, 2023

#### Members Present

Mr. Thomas DePaulo – Chair	Cabot Risk Strategies, LLC
Ms. Kristina Broskey	MAPFRE U.S.A. Corporation
Ms. Annmarie Castonguay	The Hanover Insurance Company
Ms. Mary McConnell	Safety Insurance Company
Ms. Sharon Murphy	Acadia Insurance Company
Mr. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Mr. Tiago Prado	BRZ Insurance, LLC
Mr. Thomas Skelly, Jr.	Deland, Gibson Insurance Associates, Inc.
Mr. Barry Tagen	Pilgrim Insurance Company
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.
Mr. David Zawilinski	Arbella Insurance Group

Substituted for:  
N/A

Not in Attendance:  
N/A

#### 23.01 Records of Previous Meeting

On a roll call vote, the Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of March 15, 2023 continued to March 29, 2023. The Records have been distributed and are on file.

#### 22.05 AIB Commercial Automobile Insurance Manual and Endorsement Changes

Ms. Hubley noted that at the last meeting concerns were raised by the Servicing Carriers relative to the substantial cost of implementing the policy form upgrades. She advised that the scope of the engagement between CAR and the appointed Servicing Carriers, as well as allowances to Servicing Carriers for managing ceded business, is the responsibility of the Commercial Program Oversight Committee. Accordingly, this issue will be referred to that committee for discussion of implementation schedules and Servicing Carrier compensation. The Committee was informed that an initial meeting of the Oversight Committee to consider these issues is being planned for late May.

The Committee agreed that it would continue its work to consider the updated language of the newer policy forms and evaluate the scope of the policy form upgrade project. To that end, the committee members had no additional feedback on the forms that were reviewed at the prior meeting.

Staff then presented a comparison of the Massachusetts Garage Insurance Policy Coverage Form currently on file for ceded policies to the most recent version of the Auto Dealers Coverage Form (ADCF) together with the Auto Dealers Massachusetts Mandatory Endorsement (ADMM). It was noted that many of the changes to the forms are consistent with those of the Business Auto Policy. Staff commented that the most substantial and complex changes associated with upgrading to the ADCF is the reorganization of the policy language. The revised construction separates the description of coverage afforded for covered autos from that associated with the business operations or premises coverages. Staff also noted that coverage afforded under the ADCF is modified by attaching the ADMM endorsement to ensure compliance with Massachusetts statutes and regulations. In addition, the ADCF incorporates certain coverages associated with the Commercial General Liability policy which are not eligible for cession to CAR and therefore, some exclusion endorsements will be needed to maintain coverage pursuant to the current CAR rules.

The committee members agreed to further review the materials and provide additional feedback at the next meeting.

Lastly, Ms. Browne reviewed with the Committee an updated schedule of policy form and endorsement upgrades and noted the following changes since the last meeting:

- The Business Auto Declarations – CA DS 03 11 20 was added back to the list to be available for use with risks not subject to the compulsory law as pointed out at the prior meeting.
- After completing the review of the ADCF, staff determined that the Exclusion – Acts, Errors, or Omissions Liability Coverage - CA 25 63 10 13, Exclusion - Damage to Rented Premises - CA 25 50 10 13, and Exclusion – Personal and Advertising Injury Liability Coverages - CA 25 54 10 13 were necessary to exclude coverages that are included in the ADCF but are not offered in the Massachusetts commercial automobile residual market. Thus, these forms were added to the schedule.
- Similarly, after reviewing the ADCF, the Physical Damage Coverage – Autos Held for Sale by Non-Dealers - CA 20 78 11 20 and the Covered Auto Designation Symbol - CA 99 54 10 13 were still necessary, and thus were added to the Special Types and Common Coverages sections, respectively, of the schedule.
- Based on discussions with the Automobile Insurers Bureau, it was determined that the Premium Adjustment and Coverage Endorsement – Massachusetts – MM 99 68 09 98 and Rate Modification – Massachusetts – MM 00 23 09 98 will need to be updated to include the ADCF as an applicable policy form. This update will be reflected in the next version of the schedule.

Ms. Browne noted that the schedule of forms will continue to be revised as needed as staff, counsel, and the Committee finalize their review.

#### **23.04 Eligibility of Peer-to-Peer Vehicle Sharing Programs**

The Committee began discussions regarding the eligibility for cession of risks engaged in peer-to-peer vehicle sharing programs. Staff noted that this issue was brought to the Committee through concern

that peer-to-peer clients are unable to secure coverage in the standard markets, and that the residual market currently excludes vehicle sharing programs. Ms. Browne explained that at its meetings of October 2020 and February 2021, the Committee carefully considered the issue of coverage afforded in the residual market for risks engaged in TNC-related activities. The Committee's recommendations at that time were developed based on legislation adopted to define and regulate insurance requirements for these activities. As a result of its discussions, the Committee determined that coverage for vehicle sharing programs would be excluded from the residual market due to the unknown experience of drivers operating the vehicles. At the time, the Committee noted that this approach is consistent with other procedures adopted to ensure that all drivers are listed on policies.

Ms. Browne also provided information on how this risk was being handled in other states' residual markets, noting that, of the plans reviewed, some exclude this coverage and others are silent. She also informed the Committee relative to filed legislation related to insurance requirements of peer-to-peer vehicle sharing programs. She explained that the filed legislation notes specifically that peer-to-peer car sharing does not mean rental car or rental activity as defined in Section 32E1/2 of Chapter 90. Ms. Browne expressed concern about adopting changes until the legislature completes its review.

Discussion ensued regarding challenges with respect to definition of the exposure and resulting classification and rating, with members noting that in some cases, drivers are using the vehicles for livery and delivery services on other TNC platforms. A question was also raised regarding whether a difference in exposure exists between an individual sharing his personal vehicle to supplement income versus an individual purchasing a fleet of vehicles for hire without drivers. Other topics identified for further evaluation include contracts and agreements between the various parties, processes in place to evaluate driving experience, and insurance coverage afforded through the various platforms. Some members expressed interest in awaiting legislative action on the issue, also commenting that legislative action may result not only in a clearer definition of the responsibilities of the various parties but also in increased willingness to write this risk in the voluntary market.

After discussion, the Committee directed staff to continue research into the topics discussed and agreed to continue discussion at subsequent meetings.

TIMOTHY GALLIGAN  
Director of Actuarial and Statistical Services

Boston, Massachusetts  
May 24, 2023

**ATTACHMENT LISTING**

Docket #CAC23.02, Exhibit #2

Attendance Listing

**COMMERCIAL AUTOMOBILE COMMITTEE MEETING  
 MEETING ATTENDEES  
 APRIL 26, 2023**

Individual's Name

Company / Agency

PLEASE PRINT

Thomas DePaulo	Cabot Risk Strategies, LLC
Kristina Broskey	MAPFRE U.S.A. Corporation
Annmarie Castonguay	The Hanover Insurance Company
Mary McConnell	Safety Insurance Company
Sharon Murphy	Acadia Insurance Company
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Barry Tagen	Pilgrim Insurance Company
Mark Winiker	A-Affordable Insurance Agency, Inc.
David Zawilinski	Arbella Insurance Group
Benjamin Hincks	TSH & D – CAR Counsel
Mary Ellen Thompson	Division of Insurance
Meaghan Gill	Arbella Insurance Group
Julie O'Donnell	Arbella Insurance Group
Linda Zarella	Arbella Insurance Group
Peter Barton	Safety Insurance Company
Kathy Cormier	MAIA
John Magadieu	Arbella Insurance Group
Monique Miller	AIB
Michael Brady	Pilgrim Insurance Company
Wendy Browne	CAR Staff
Shannon Chiu	CAR Staff
Timothy Costain	CAR Staff
Richard Dalton	CAR Staff

**COMMERCIAL AUTOMOBILE COMMITTEE MEETING  
MEETING ATTENDEES  
APRIL 26, 2023**

Individual's Name

Company / Agency

PLEASE PRINT

Timothy Galligan	CAR Staff
Matthew Hirsh	CAR Staff
Natalie Hubley	CAR Staff
Cheryl Kopas	CAR Staff
Katy Proctor	CAR Staff
Tiffany Manning	CAR Staff
James Robery	CAR Staff
Lynne Rosenberg	CAR Staff
Evan Ross	CAR Staff
Alison Ruggiero	CAR Staff
Robin Tigges	CAR Staff