



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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## NOTICE OF MEETING

### COMPLIANCE AND OPERATIONS COMMITTEE

A meeting of the Compliance and Operations Committee will be held virtually via Zoom video conferencing software, on

**WEDNESDAY, FEBRUARY 1, 2023, AT 10:00 A.M.**

If you plan to attend this meeting and are not a member of this Committee, please RSVP by completing the Visitor Security Form located in the Contact Us/Visitor Information section of CAR's website. CAR will then forward to you, via email, meeting access information. Please do not share access information provided by CAR, but refer others wishing to attend the meeting to CAR's Visitor Security Form.

### MEMBERS OF THE COMMITTEE

Ms. Erin Cummings– Chair  
Norfolk and Dedham Group

Ms. Kara Boehm  
Mr. Thomas Harris  
Ms. Annmarie Hassan  
Ms. Nicole Martorana  
Ms. Sharon Murphy  
Mr. Kenneth Olivieri  
Mr. Henry Risman  
Mr. Barry Tagen  
Mr. Christopher Taylor  
Ms. Brenda Williams

Allstate Insurance Group  
Quincy Mutual Group  
Arbella Insurance Group  
FBInsure  
Acadia Insurance Company  
J.K. Olivieri Insurance Agency, Inc.  
Risman Insurance Agency, Inc.  
Pilgrim Insurance Company  
The Hanover Insurance Company  
MAPFRE U.S.A. Corporation

### AGENDA

#### COPC

##### 22.01 Records of Previous Meeting

The Records of the Compliance and Operations Committee meeting of September 7, 2022 should be read and approved.

**COPC**

**23.03 CAR Conflict of Interest Policy**

The Chair will read a statement relative to CAR's Conflict of Interest Policy.

**COPC**

**23.04 Informational Items**

The Chair will report on any Governing Committee actions that impact the Compliance and Operations Committee.

**COPC**

**23.05 Compliance Audit Program**

Staff will present a status report of current ongoing audits being conducted in accordance with the Compliance Audit Program, as well as an update on companies being monitored due to reporting problems identified through CAR's data quality program. Staff will also review the attached information relating to Esurance efforts to address its data quality and will request direction from the Committee with respect to ongoing issues with Esurance endorsement transaction reporting. (Docket #COPC23.05, Exhibit #1)

**COPC**

**23.06 Operational Reports**

The 2<sup>nd</sup> and 3<sup>rd</sup> Quarter 2022 Operational Reports were posted to CAR's website in September and December 2022, respectively. Questions or comments relative to these reports will be discussed at the meeting.

**COPC**

**23.07 Claims Subcommittee**

The Compliance and Operations Committee will hear the report of the Claims Subcommittee meeting of November 30, 2022. The Records of the Claims Subcommittee meeting of November 30, 2022 are attached. (Docket #COPC23.07, Exhibit #1)

**Other Business**

To transact any other business that may properly come before this Committee.

**Executive Session**

The Compliance and Operations Committee may convene in Executive Session in accordance with the provisions of G.L. c. 30A, § 21.

MATTHEW HIRSH  
Compliance Audit Supervisor

Attachments

Boston, Massachusetts  
January 20, 2023

## Compliance Audit Program

### Esurance Hybrid/Focus Audits

#### Background:

On November 17, 2021, Esurance was notified that the Governing Committee had accepted the report of the Compliance and Operations Committee with respect to the second focus audit of the company. Esurance was also notified that its data reporting issues were to be corrected no later than the due date for the January 2022 monthly statistical submission or company's data submission would then be considered Late and Unacceptable and eligible for penalties. This action was a result of unacceptable results documented in the 2017 Hybrid Audit Report, the 2019 Focus Audit Report and the 2021 Focus Audit Report. Five statistical reporting issues (offsetting records, endorsement reporting, allocated expenses, classification code, and PIP payments) and two other non-compliance issues (merit rating reporting and substantiation of towing services) were identified for mandatory correction.

In February 2022, CAR completed its review of Esurance's 2021 data. Because Esurance had demonstrated a good-faith effort and made significant progress in correcting its reporting issues (4 of the 5 issues had been rectified), CAR did not recommend penalties at the time even though complete compliance had not been realized. Instead, Esurance was provided with additional time to continue working on its reporting issues so that compliance would occur by the March 2022 submission due May 16, 2022. In March, Esurance requested and was granted an extension to the June 2022 submission, due August 15, 2022, to correct its one remaining reporting issue and continue its ongoing discussions with CAR staff relative to the validation of accurate reporting for towing services.

In September 2022, CAR notified Esurance that it had completed its review of the June 2022 submission and that the results remained non-compliant as some policies with offset/reenter endorsements were reported correctly and others that were not. Esurance indicated that the June submission contained erroneous data due to a programming issue. Similar inconsistencies were identified in the July submission. Additionally, Esurance had yet to provide documentation to substantiate the statistically reported tow payments. Accordingly, CAR began assessing penalties for late and unacceptable shipments. A penalty of \$18,500 was assessed with the 3<sup>rd</sup> Quarter 2022 Settlement of Balances and additional penalties may be assessed in the 4<sup>th</sup> and future quarters if the reporting issues remain uncorrected.

#### Current Status:

CAR continues to work with Esurance on its reporting of towing losses. The company has neither provided source documentation to validate the agreed upon amount paid to its national vendor for each towing transaction, nor made a system adjustment to correct the reported loss amount to properly exclude unallocated loss adjustment expenses. (Note that CAR committees agreed that audited companies must provide all source documentation related to loss payments including an explanation of expenses and costs).

In addition, while Esurance has made progress in correcting the reporting of offset and reenter endorsement records, there is one subset of transactions involving out-of-sequence endorsements that Esurance has not corrected at this time. Due to the complexity of these transactions, Esurance has indicated that it would be extremely costly to update its system to correctly report these records. Esurance has advised CAR that the out-of-sequence endorsement transactions represent approximately 20% of the overall volume of their endorsement records. However, Esurance has further advised CAR that it is no longer writing new business in Massachusetts and that Allstate (Esurance's

parent company) is anticipating that the Esurance book of business will be moved to a different platform in the future.

Because Late and Unacceptable Shipment Penalties are assessed for each calendar month that each monthly submission is incorrect, significant penalty assessments will accrue over time. Currently, \$18,500 was assessed in the 3<sup>rd</sup> Quarter, \$45,000 is scheduled to be assessed in the 4<sup>th</sup> quarter and a final amount of \$42,000 would be assessed in 1<sup>st</sup> Quarter 2023 after the 2022 accounting year is closed out, and if this reporting issue is not rectified, penalties would continue to be assessed in the 2023 and future accounting years. Accordingly, CAR Staff is requesting input from the Committee as to how to proceed in addressing this matter.

Considerations:

- Under the current schedule, \$105,000 in penalties will be assessed by the close of the 2022 accounting year. The Committee could consider discontinuing penalty assessments in future accounting years if Esurance/Allstate can provide a more definitive and timely date for its anticipated moving the book of business to a different platform (which presumably would terminate the reporting of invalid endorsement transactions). The reporting and validation of towing transactions would need to be resolved as well.
- If Esurance/Allstate is unable to provide a definitive date, or if the Committee believes the proposed date of change is too lengthy a time period, the Committee could consider continuing to assess penalties in future accounting years but set a maximum penalty amount.
- The Committee can also consider continuing with the original recommendation such that penalties will continue to accrue for each accounting month/calendar month for future accounting years until Esurance/Allstate updates its system or moves the book of business to a different platform.



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## RECORDS OF MEETING

### CLAIMS SUBCOMMITTEE – NOVEMBER 30, 2022

#### Members Present

Mr. David Deluca – Chair  
Mr. Daniel Clough  
Mr. Nathan Joyner  
Ms. Heidi Mussler  
Mr. Paul Narciso  
Ms. Mary Singas  
Mr. Doug Sprou

Vermont Mutual Insurance Company  
Arbella Insurance Group  
Amica Mutual Insurance Company  
Quincy Mutual Group  
Safety Insurance Company  
MAPFRE U.S.A. Corporation  
Plymouth Rock Assurance Corporation

Substituted for:  
N/A

Not in Attendance:  
Ms. Ida Denard Jones, Denard Insurance Agency, Inc.

#### 22.01 Records of Previous Meeting

On a roll call vote, the Subcommittee unanimously voted to approve the Records of the Claims Subcommittee of January 26, 2022. The Records have been distributed and are on file.

#### 22.05 Claims Performance Standards

The Claims Subcommittee met to assist the Compliance and Operations Committee with its biennial review of proposed modifications to the Private Passenger and Commercial Claims Performance Standards (the Standards) as required by G.L.c.175, §113H. Specifically, the Subcommittee reviews modifications to the Standards biennially as proposed by Subcommittee members or CAR staff and provides a recommendation to the Compliance and Operations Committee.

Mr. Mark Alves and Mr. Peter Bertoni provided an overview of modifications to the Standards proposed by CAR staff. Mr. Alves explained that staff suggested five changes to each of the Private Passenger and Commercial Standards. Of the five changes, four were consistent for both private passenger and commercial. Beginning with the four consistent changes, a description of each was provided to the Subcommittee.

The first suggested change pertained to Standard II: Bodily Injury & Uninsured/Underinsured Motorist. Standard II references the requirement that insurers check policy information and accident history while reporting to the Central Index Bureau (CIB) to determine if possible red flags exist as part of the initial screening process of accident reports. However, the CIB was sold to a vendor and no longer exists. CAR staff proposed eliminating the language that references the CIB and replacing it with language that does not name a specific vendor or database. Mr. Bertoni noted that the Standards do not typically identify a specific vendor and leaving the requirement without naming an alternative database would be appropriate. After discussion of the proposed language, the Subcommittee adjusted the reference to “the industry claim database” to “an industry claim database”.

Next, a proposed change to Standard III: No-Fault Personal Injury Protection (PIP) Benefits Handling in the Claim Payment sections of the Standards was discussed. Mr. Bertoni described the change as an opportunity to strengthen the requirement to coordinate benefits between the auto policy and health plans in Standard III by specifically referencing the requirements detailed in Appendix N. Appendix N is the Division of Insurance Bulletin 2017-06 describing proper coordination of PIP and MedPay claims with health plans. Staff proposed adding the requirement that all claim payments be made in accordance with the DOI Bulletin 2017-06 (Appendix N) under the Evaluation and Settlement section of Standard III. Subcommittee member Ms. Heidi Mussler suggested it would also be beneficial to reference Appendix N in the Claim Payment section that specifically references the coordination of benefits. After discussion, the Subcommittee agreed that references in both sections were appropriate.

Staff then discussed proposed changes to Appendix H: Chapter 175, Section 24D, noting Chapter 175 was amended in 2003 by adding Section 24E. Section 24E assigned additional responsibility on insurers to check with the Division of Medical Assistance and the Department of Transitional Assistance for liens prior to issuing 3<sup>rd</sup> party settlement payments.

The final proposed change applicable to both the Private Passenger and Commercial Standards was for Appendix M: NAIC Standards. Staff explained that the current NAIC Standards included in the Market Regulation Handbook were amended from 14 to 11 standards. Staff discussed the proposed modifications to Appendix M to reflect the current NAIC Standards, and to update applicable references to the Performance Standards or Rules of Operation where necessary.

Staff then addressed Appendix J: CAR SIU File Review Process – MAIP Policies of the Private Passenger Standards. Mr. Bertoni began by noting that CAR updated the frequency of the Hybrid Audit for all Assigned Risk Companies (ARCs) writing private passenger business from once every three years to once every five years. He stated that this change occurred in consideration of the increase in the number of ARCs eligible for audit since implementation of the Hybrid Audit, and the growth of focus and quota share audits of new entrants as required by updates to the ARC Procedures Manual. Staff also discussed recent efforts to improve the quality and standardization of the industry SIU data. Similar to recent reviews of the Standards, staff proposed required use of a CAR-developed template for reporting CAR Rule 32.C.2. SIU completed audits of garaging and policy facts to CAR.

The final modifications discussed pertained to Appendix J: CAR SIU File Review Process of the Commercial Standards. Staff noted the deletion of the word “approximately” in section B, stating that the sample size is established as 25 SIU referrals in the Standards. Consistent with Appendix J in the Private Passenger Standards, staff also proposed the required use of the same template for reporting CAR Rule 10.C.2. SIU completed audits of garaging and policy facts to CAR.

**On a roll call vote, the Subcommittee voted unanimously to recommend to the Compliance and Operations Committee approval of the amendments to the Private Passenger and Commercial Standards as proposed by CAR staff, with the additional language to Standard I and Standard II as proposed by the Subcommittee.**

MARK ALVES  
Director – Compliance Audit

Boston, Massachusetts  
December 9, 2022