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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, JUNE 7, 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, LLC  
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

##### 23.01 Records of Previous Meeting

The Records of the Compliance and Operations Committee meeting of February 1, 2023 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 conducted in accordance with the Compliance Audit Program, as well as an update on company reporting problems being monitored due to issues identified through CAR's data quality program.

**COPC**

**23.06 Operational Reports**

The 4<sup>th</sup> Quarter 2022 Operational Reports were posted to CAR's website in March 2023. Questions or comments relative to these reports will be discussed at the meeting.

**COPC**

**23.08 Towing and Labor Loss Reporting**

In connection with the recent audits of Esurance, staff has encountered an issue relating to the reporting of towing and labor losses, as well as supporting documentation for audit purposes, in instances where a vendor is employed to provide roadside assistance. Staff will review the attached background information describing the issue and considerations and will request direction with respect to its conclusions. (Docket #COPC23.08, Exhibit #1)

**COPC**

**23.09 SIU Reporting**

Staff will present the annual report of industry results for the 2022 Special Investigative Unit (SIU) review of adherence with requirements detailed in CAR Rules 10.C and 32.C.

**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

Attachment

Boston, Massachusetts  
May 24, 2023

## Statistical Reporting Discussion – Esurance Towing Compliance and Operations Committee

### Overview

CAR staff and Esurance differ on CAR's ability to validate the statistically reported tow loss payments in accordance with the MA Private Passenger Statistical Plan, the ARC Procedures Manual, and the Private Passenger Claims Performance Standards. Esurance has been audited on three occasions within the current audit cycle (one Hybrid Audit and two focus audits). Staff agrees that Esurance can report a standard predetermined fee for tow loss payments, but asserts that the company has not substantiated the tow charge amount and therefore considered all sampled tow charges across each audit as unsupported. Staff notified the Compliance and Operations Committee (COPC) that it would provide an update at its next meeting and would request further direction from the Committee.

### Esurance

Esurance communicated to CAR in writing on January 27, 2023 that Allstate Motor Club (AMC) is a separately capitalized company from Esurance and serves as a vendor to Esurance, and that Esurance considers the full charge of \$75.70 as the correct payment amount to statistically report. Esurance asserts that the \$75.70 amount is a contractually agreed upon price between Esurance and its vendor. Esurance advises CAR that for financial reporting purposes, the \$75.70 per transaction is recorded as loss payments. Esurance believes this is the appropriate treatment for CAR reporting purposes as well.

Esurance also acknowledged that prior documentation to support the individual tow payment was insufficient for CAR staff to adequately validate the statistically reported Emergency Roadside Services (ERS) payments and provided additional documentation. The documentation included:

- The master contract which includes a schedule of services provided by AMC to Esurance (Schedule H) charged on a per occurrence basis.
  - The contract also includes additional schedules describing like services provided by AMC to other Allstate affiliates, some charged on a per policy basis.
- Invoices to Esurance, titled Remittance Contract Activity, that separate charges by the type of ERS (towing, jump start, tire change, fuel delivery, lock out, and winch) and provide occurrence counts, unit price, and total charges.
  - The calculated per occurrence charge on the invoice approximates the \$75.70 agreed amount.
- An Excel spreadsheet that contains national AMC towing data exhibiting the state in which the ERS event occurred.
  - The export also includes detailed policyholder information to assist in verifying the insured vehicle, VIN, policyholder name, date of loss, paid amount, and accident state.

### Master Contract and Schedule H

Esurance has an agreement with AMC for responding to all ERS requests. The agreement has been active for each audit. CAR previously received Schedule H from Esurance as support for validation of towing charges relating to prior audits. Two versions were provided covering the effective dates of audits extending over four accounting years. The agreement provides ERS for Esurance policyholders relating to Towing and Labor Coverage (or other similar coverages). According to the contract, Esurance pays AMC for each ERS call in exchange for services rendered. The Hybrid Audit documentation reflected a fee of \$58 per occurrence. Subsequent focus audit documentation noted the fee had increased to \$76.

Services provided by AMC to Esurance itemized in Schedule H include:

- a) Dispatching ERS including towing, tire change, gas, oil, water delivery, and battery and lock out services.

- b) Programming, testing, and maintaining a database of policyholders eligible for ERS.
- c) Establishing and maintaining an 800-service number for policyholders to call for ERS.
- d) Verifying and monitoring performance of ERS providers.
- e) Paying invoices submitted by ERS providers in connection with the provided service.
- f) Providing call center support and electronic dispatching services.
- g) Providing Esurance reports upon request regarding the provided services.

CAR staff asserts that the services described in (b)-(g) are services provided by AMC to Esurance in addition to the roadside assistance, and therefore should be recorded separately as unallocated loss adjustment expenses. Staff therefore contends that the costs associated with dispatching ERS described in (a) should be separately documented in order to enable validation of the reported losses.

#### Observations on Additional Supports

- The invoices span October 10, 2020 through December 4, 2020 but omit October 24, 2020 through November 6, 2020.
- CAR compared the Remittance Contract Activity and the ERS-related Excel export to data statistically reported to CAR and was able to confirm that eligible occurrences were reported.
- CAR acknowledges that the claims statistical data agreed to the Excel export data and the updated Schedule H, applicable to Esurance, did not specify additional Unallocated Loss Adjustment Expenses (ULAE) fees payable to AMC.
- Staff considers that the improved supports allow for confirmation that the reported towing loss amount matches to the exported value included in the Excel export provided by Esurance. However, the concerns regarding the inclusion of ULAE within the reported tow payment loss amount remains unchanged.
- Examples of five other different agreements between AMC and Allstate or Allstate affiliates (equivalent to Schedule H) were also contained with the updated supports. Each included the requirement that Allstate or the affiliates pay for services as policy fees, service fees, and/or handling fees to AMC.

#### Informing Manuals

Chapter X – Compliance Audit of the Assigned Risk Company Procedures Manual requires that CAR be provided access to all source documentation related to legal, medical, and all other expense details including the explanation of expenses and costs.

The MA Private Passenger Automobile Statistical Plan requires that each premium and loss be reported on an individual transaction-by-transaction basis in accordance with the instructions and codes of the Plan. The Statistical Plan also defines ULAE as expenses paid by a company in settling a claim that cannot be directly allocated to a specific claim, and that ULAE should not be reported to CAR.

Examples of ULAE include:

- Overhead, salaries, and traveling expenses of company employees (other than amounts allocated as attorney fees for claims in suit).
- Special investigations concerning the facts of the loss.
- Adjuster's fees, including those paid to independent adjusters and/or attorneys for adjusting claims including the investigation and adjustment of claims, the disposition of salvage, and the recovery of subrogation claims not in suit.

Standard V of the Claims Performance Standards requires that ARC's must report allocated expenses properly in accordance with the Statistical Plan and the procedures manual specifically referencing that ULAE should not be reported.

### Additional Considerations

- The structure of agreements for Allstate and its affiliates identifying charges on a per policy basis supports CAR's conclusion that these additional services are unallocated loss adjustments expenses.
- An amendment to Schedule H was submitted with Esurance's January 27, 2023 letter which further supports staff's conclusion of ULAE. The amendment indicates discounts that would be credited to Esurance monthly if certain technology efficiencies are utilized.
- Potential impacts to ratemaking of inappropriate accounting for losses and expenses are unclear.
- Potential amendments to the Statistical Plans and Performance Standards may be needed depending upon the outcome of the Committee discussion.
- Staff observes similar arrangements in other ongoing audits, not restricted to Esurance affiliates.