



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110
www.commauto.com 617-338-4000

ADDITIONAL INFORMATION

TO MEMBERS OF THE GOVERNING COMMITTEE

FOR THE MEETING OF:

Wednesday, April 13, 2022, at 10:30 a.m.

GC

22.07 Commercial Automobile Committee

The Records of the Commercial Automobile Committee meeting of March 30, 2022 are attached. (Docket #GC22.07, Exhibit #2)

The Records of the Commercial Automobile Committee meeting of March 30, 2022 have been distributed and are on file.

GC

22.11 Commercial Program Oversight Committee

The Records of the Commercial Program Oversight Committee meeting of March 29, 2022 are attached. (Docket #GC22.11, Exhibit #1)

The Records of the Commercial Program Oversight Committee meeting of March 29, 2022 have been distributed and are on file.

NATALIE A. HUBLEY
President

Attachments

Boston, Massachusetts
April 5, 2022



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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE COMMITTEE – MARCH 30, 2022

Members Present

Mr. Thomas DePaulo – Chair	Cabot Risk Strategies, LLC
Mr. Thomas Bird ⁽¹⁾	Acadia Insurance Company
Mr. Michael Brady ⁽²⁾	Pilgrim Insurance Company
Mr. Donald Bredberg	Norfolk and Dedham Group
Ms. Kristina Broskey	MAPFRE U.S.A. Corporation
Ms. Annmarie Castonguay	The Hanover Insurance Company
Ms. Sheila Doherty	Doherty Insurance Agency, Inc.
Ms. Mary McConnell	Safety Insurance Company
Mr. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Mr. Thomas Skelly, Jr.	Deland, Gibson Insurance Associates, Inc.
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.
Mr. David Zawilinski	Arbella Insurance Group

Substituted for:

⁽¹⁾Ms. Sharon Murphy

⁽²⁾Mr. Barry Tagen

Not in Attendance:

N/A

22.01 Records of Previous Meeting

On a roll call vote, the Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of February 3, 2022. The Records have been distributed and are on file.

19.05 Commercial Residual Market Issues

Ms. Wendy Browne reported that the list of issues impacting the commercial residual market has been updated to reflect the prioritization of items based on the Committee deliberations at the last meeting. Ms. Browne noted that the new list has been separated into two sections, the list of issues under consideration by the Commercial Automobile Committee and issues that have been referred to other committees. She noted at today's meeting the Committee will discuss the Manual Rules and Forms recently adopted by Automobile Insurance Bureau (AIB) and whether they are appropriate for the residual market.

Ms. Browne also notified the Committee that the vendor who provided the inspection form required for new business for taxi, limousine, and car service residual market policies will no longer be providing

that service. She indicated that CAR has been asked to consider creating an inspection form for all Serving Carriers to utilize. She advised the Committee that CAR's Compliance Audit Department has reviewed the existing form and saw benefits in modifying it to include questions related to the Massachusetts residual market. She asked for the Committee's consensus to move forward with allocating resources to build the modified form. The Committee noted that a common form would ensure consistency among all Servicing Carriers and agreed that staff should move forward in its efforts.

22.05 AIB Commercial Automobile Insurance Manual and Endorsement Changes

Mr. Galligan introduced a summary exhibit highlighting new commercial automobile endorsements recently adopted by the AIB for use in the Massachusetts voluntary market. Mr. Galligan noted that the initial discussion is intended to obtain feedback as to which endorsements may be appropriate for the residual market. Based on the Committee's feedback, Staff will draft applicable forms and rules for consideration at a subsequent meeting. The Committee reviewed and discussed the endorsements as follows:

1. Cannabis Exclusion Endorsements

The Committee considered three endorsements excluding coverage for cannabis operations and use, with and without exceptions for hemp, and hemp and lessor's risk. Committee members indicated that they have observed instances of cannabis growing and/or selling activities in garage operations and expressed interest in ensuring that the exclusion of losses associated with such activities is clarified. However, they noted that the AIB endorsements are applied to the general liability section of the auto dealers coverage form and requested that Counsel consider whether the endorsement forms are needed for the MA garage policy, or to what extent they would need to be modified to clarify coverage under the garage operations section.

2. Replacement Cost Coverage Endorsement for PPT's

The Committee discussed the endorsement to amend physical damage coverage for PPT vehicles to pay the amount to replace a covered auto for a "total" loss that occurs within 24 months of ownership and less than 24K miles on the odometer. The Committee consensus was that this coverage was not appropriate for the residual market.

3. Broadened Non-Ownership Endorsements

The Committee reviewed two endorsements broadening the non-owned coverage. The first endorsement extends non-owned coverage to apply to any volunteers, not just social service agency volunteers. The second endorsement extends non-owned coverage to partners and LLC members when using autos owned by them or a household member.

While some members questioned whether such coverage has been commonly requested, producers suggested that this coverage is being bound currently. Other members noted requests for this coverage that had been turned away. In order to ensure consistency among carriers and appropriate rating procedures, the consensus was to direct staff to move forward with consideration of the broadened endorsement forms.

4. Volunteer Hire Auto Coverage

Consistent with the non-owned coverage discussion, the Committee directed staff to also move forward with consideration of the volunteer hired auto coverage.

5. On Hook Tow Coverage

This endorsement would provide coverage as part of towing operations if the insureds do not have a garage or service location. Staff informed the Committee that it has received questions relative to whether the MA garage policy form provides on-hook coverage, and whether it should be afforded for all tow operations.

Members agreed that there are common misunderstandings about this coverage, noting differences between towing operations and auto hauling services. They also discussed the importance of the right pricing if this coverage is added, with many high value vehicles being towed. The Committee was in favor of considering this coverage, but felt a more thorough review should be conducted in conjunction with the difference in policy forms and garage keepers coverage, as well as the issue of limits and appropriate rating.

6. Designated Location(s) Products and Work you Performed Aggregate Limit for Certain General Liability Coverages

The Committee reviewed an endorsement that amends the aggregate limit for general liability coverage from a per-policy basis to per-designated-location basis. Servicing Carriers commented that this expanded coverage would be difficult and expensive to implement. In addition, the Committee noted the increased exposure to the residual market and was not in favor of pursuing it further.

7. Limited General Liability Coverage for Designated Unmanned Aircraft for Dealerships

The Committee reviewed four endorsements to add drone coverage options for Dealerships. The Committee agreed that this coverage was not appropriate for the commercial automobile residual market and noted that ample general liability coverage for drones is available in the surplus market.

8. Unmanned Aircraft Exclusion Endorsement (UVA)

The Committee discussed whether the Unmanned Aircraft Exclusion endorsements were needed. It was noted that the MA garage policy includes language that states “any” aircraft is excluded. However, as aircraft is not specifically defined, the Committee agreed that the endorsements should be considered for use in the residual market to eliminate ambiguity.

9. Cross Suits Liability Exclusion Endorsements

Servicing Carriers noted that, while cross suits claims are rare, they do occur and increase liability to the residual market. Accordingly, the Committee recommended adoption of this clarification to protect the residual market from this exposure.

10. Comprehensive and Collision Coverage for Watercraft in the Insureds Care

Staff noted that the MA garage policy excludes coverage for watercraft, except those in the care of the insured. The Committee agreed that this additional coverage is not appropriate in the commercial automobile residual market.

11. Mobile Home Contents Coverage for Comprehensive

Staff noted that CAR requires Servicing Carriers to exclude coverage for mobile home contents with endorsement CA 20 27. Servicing Carriers indicated that they are not aware of requests from insureds

and noted that coverage is available through other lines. Accordingly, the Committee agreed that this additional coverage is not appropriate for the commercial automobile residual market.

12. Physical Damage Coverage to Autos Held for Sale by Non-Dealers

The Committee agreed that this endorsement is not appropriate for the commercial automobile residual market, noting that it is readily available in other markets.

13. Automatic Insured Status for Newly Acquired or Formed Limited Liability Companies – Other Than Covered Auto Coverages

The Committee agreed that this coverage is not appropriate for the commercial automobile the residual market.

14. ATV/UTV Coverage

The Committee agreed that ATV/UTV coverage is not appropriate for the commercial automobile residual market, noting that coverage is widely available in other markets for these types of vehicles. Additionally, similar vehicle types including golf mobiles, snowmobiles, and low speed vehicles are not cedable to the commercial automobile residual market.

15. Towing and Labor Extended to Light and Medium Trucks

The Committee discussed whether towing and labor coverage should be offered for light and medium trucks in the residual market. While the coverage is believed to be rarely used, in part due to its availability from manufacturers and dealers, members agreed that the need does exist, and that this coverage should be considered for offering. Discussion ensued about the varying sizes, weights, and values of these vehicles, and the Committee agreed that an appropriate rate to address these differences should be considered.

Lastly, Ms. Natalie Hubley noted the consistent comments among committee members relative to consideration of the new endorsement forms addressing the need to consider the different policy forms on file for use in the residual market. That is, CAR has not adopted the auto dealers coverage form or the motor carrier coverage form, but rather continues to use the MA garage policy and the truckers policy forms, respectively. Accordingly, to implement the recommended changes, a thorough review of the differences in the forms will be required to draft unique endorsements appropriate use with the forms on file for CAR. Ms. Hubley suggested that staff prepare a comparison the of the forms and a summary of the Committee's prior discussions. The Committee may then evaluate whether circumstances in the current market support adoption of the newer forms or to affirm the use of CAR's current policy forms. The Committee members agreed and also suggested a review of CAR's rating manual to address ambiguities that may lead to inconsistent procedures among the Servicing Carriers.

TIMOTHY GALLIGAN
Director of Actuarial and Statistical Services

Boston, Massachusetts
April 5, 2022



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RECORDS OF MEETING

COMMERCIAL PROGRAM OVERSIGHT COMMITTEE – MARCH 29, 2022

Members Present

Mr. John Olivieri, Jr. – Chair
Mr. Thomas Bird ⁽¹⁾
Mr. Donald Bredberg
Mr. Brian Hayes

J.K. Olivieri Insurance Agency, Inc.
Acadia Insurance Company
Norfolk and Dedham Group
Quincy Mutual Group

Substituted for:

⁽¹⁾Ms. Sharon Murphy

Not in Attendance:

Mr. David McCormick, McCormick & Sons Insurance Agency, Inc.

CPOC

21.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Program Oversight Committee meeting of October 26, 2021. The Records have been distributed and are on file.

CPOC

22.04 2021 Servicing Carrier Annual Report Review

Mr. John Metcalfe provided an overview of the 2021 Annual Report template attached to the meeting notice and intended to be used by the Servicing Carriers in preparing their 2021 Annual Reports for review by the Committee. He noted that the template was broken into sections, including one section with specific questions addressing current market issues and another section containing more general topics and data for Servicing Carrier comment. The Annual Report template also contains a schedule of dates for distribution to Servicing Carriers, for completion and submission to CAR, and for the Committee's review the Annual Reports.

Mr. Brian Hayes noted that the specific areas identified for Servicing Carrier comment appropriately address the discussions of the past year, particularly with respect to COVID-19 impacts and SIU reporting changes. After a brief discussion, it was the consensus of the Committee to move forward with distributing the report template, as drafted, to the Servicing Carriers.

CPOC

22.05 Request for Reimbursement of Extraordinary Expense – Safety Insurance Company

Ms. Elizabeth Brodeur, representing the Safety Insurance Company, presented the Committee with a matter in which a substantial amount of earned premium due the company was uncollectable despite the efforts undertaken by Safety. She noted that the situation and handling of the matter was directly in response to COVID-19 directives from the Massachusetts Division of Insurance (DOI) and CAR, citing the March 10, 2020, Executive Order which declared a State of Emergency in the Commonwealth of Massachusetts, and Division of Insurance Bulletin 2020-05 directing carriers to provide insureds flexibility in the timing of premium payments. She noted that, in response to the DOI directive, Safety instituted a moratorium on all non-payment-related cancellations and non-renewals and waived late fees for all voluntary and ceded policies. Ms. Brodeur explained that Safety lifted its moratorium on June 15, 2020 and continued to work with voluntary and ceded policyholders experiencing financial difficulties due to the pandemic.

Ms. Brodeur referred to Safety's written submission, noting that Safety's total ceded earned but uncollected premium for 2020 was 2.189% of written premium, inordinately higher than historical experience. She advised that Safety is seeking reimbursement for earned but uncollected premium in the amount of \$379,684.17 which it has incurred on two ceded commercial automobile insurance policies issued to an insured which provided delivery services for Amazon. Both policies were in force during the COVID-19 pandemic and, she noted that neither policy would have incurred such significant earned but uncollected premium balance absent the accommodations Safety put in place to assist policyholders during the pandemic as directed by the Division of Insurance.

Ms. Brodeur indicate that Safety worked with the insured and its representatives, following the lifting of the moratorium, in an effort to collect the total earned but uncollected premiums due on both policies. After many months with no payments being made on these policies, in late April 2021, Safety notified the insured that if a mutually agreeable payment arrangement could not be reached, Safety would refer the matter to a third-party collection agency. A few days later, Safety received a letter from the insured's counsel indicating, for the first time, that the insured had been notified by Amazon earlier in the year that its contract with Amazon was ending as of March 31, 2021. The letter also noted that the insured was no longer operating, that the insured had surrendered its leased fleet of delivery vehicles and had minimal remaining assets. Subsequently, Safety referred the insured's outstanding earned but uncollected premium debt to a third-party collection agency. She stated that, to date, those collection efforts have been unsuccessful.

Ms. Brodeur summarized that the company is seeking reimbursement of total earned but uncollected premiums for this insured that are directly attributable to the accommodations Safety put in place to assist policyholders during that time as a result of the directives and bulletins from the Division of Insurance and CAR which Safety would not otherwise have incurred in fulfilling its commitment as a Servicing Carrier in the CAR Commercial Servicing Carrier program.

The Committee recognized the impact COVID-19 had in precipitating the implementation of the State of Emergency in the Commonwealth of Massachusetts, the Division of Insurance Bulletins and the CAR Bulletins during that time and discussed the timeline of the two policies in question.

The Committee discussed the policy in effect May 2019 to May 2020 and inquired as to the disposition of the policy just prior to the State of Emergency declaration. Ms. Brodeur noted that the risk was a long-standing ceded policy with frequent endorsement activity and premium movement. She noted that the policy was endorsed with significant premium impact shortly before Safety's moratorium. In order to best understand how the premium accrued, the Committee asked that Safety provide an accounting of the May 2019 policy. In addition, the Committee requested that Safety provide the insured's prior payment

history, and a description of the company's normal cancellation procedures in the absence of the COVID-19 pandemic and how those procedures would have applied to this insured.

Finally, Chair John Olivieri noted that the COVID pandemic health emergency and the directives for accommodations by the DOI and CAR expired some time ago and that there is reasonable expectation that carriers have determined the impact of resulting earned but uncollected premium. He indicated that, at its previous meeting, the Committee noted that the Manual of Administrative Procedures requires that a Servicing Carrier provide CAR with timely notification that it is seeking reimbursement of extraordinary expenses. Accordingly, he suggested that Servicing Carriers anticipating submitting a request for reimbursement do so by July 1, 2022.

RICHARD DALTON
Residual Market Liaison

Boston, Massachusetts
April 1, 2022