



NATALIE A. HUBLEY
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110

www.commauto.com

617-338-4000

NOTICE OF MEETING

GOVERNING COMMITTEE

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

WEDNESDAY, NOVEMBER 16, 2022, AT 11:00 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. Elizabeth B. Brodeur – Chair

Ms. Pamela L. Bodenstab-Krynicki
Mr. Ryan A. Brand
Ms. Sarah Clemens
Mr. Thomas C. DePaulo
Mr. Thomas A. Harris
Mr. William S. Hughes
Ms. Ida Denard Jones
Ms. Nicole Martorana
Mr. M. John Olivieri, Jr.
Mr. Tiago Prado
Mr. Christopher D. Taylor
Ms. Meredith M. Woodcock

P.L. Krynicki Insurance Agency, Inc.
GEICO
MAPFRE U.S.A. Corporation
Cabot Risk Strategies, LLC
Quincy Mutual Group
Arbella Insurance Group
Denard Insurance Agency, Inc.
FBInsure
J.K. Olivieri Insurance Agency, Inc.
BRZ Insurance
The Hanover Insurance Company
Liberty Mutual Insurance Companies

AGENDA

GC

22.01 Transcript of Previous Meeting

The transcript of the Governing Committee meeting of September 21, 2022 should be read and approved.

GC

22.03 CAR Conflict of Interest Policy

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

GC

22.04 President's Report

Commonwealth Automobile Reinsurers' President will report on matters affecting CAR.

GC

22.05 Counsel's Report

Commonwealth Automobile Reinsurers' Counsel will report on pending litigation, CAR Rule changes and any other matters relevant to legal issues at CAR.

GC

22.09 Personnel Committee

The Governing Committee will hear the report of the Personnel Committee meeting of October 25, 2022.

The Records of the Personnel Committee meeting of October 25, 2022 are attached. (Docket #GC22.09, Exhibit #2)

The Records of the Personnel Committee meeting of October 25, 2022 have been distributed and are on file.

GC

22.11 Commercial Program Oversight Committee

The Governing Committee will hear the report of the Commercial Program Oversight Committee meeting of October 27, 2022.

The Records of the Commercial Program Oversight Committee meeting of October 27, 2022 are attached. (Docket #GC22.11, Exhibit #3)

The Records of the Commercial Program Oversight Committee meeting of October 27, 2022 have been distributed and are on file.

GC

22.16 Amendment to CAR Plan of Operation – Producer Representatives on the Governing Committee

On July 31, 2022, Governor Baker signed into law Chapter 126 of the Acts of 2022, amending the subsection of G.L. c. 175, § 113H that addresses the make-up of the CAR Governing Committee. Specifically, the amended statute eliminates certain requirements with respect to producer appointments. Attached is a draft amendment to Article I – Structure and Governance of CAR's Plan of Operation reflective of the amended statute. The amendment also corrects reference to the provisions of G.L. c. 30A.

CAR Counsel will review the proposed amendment at the meeting and will request Governing Committee approval to forward the proposed amendment to the Commissioner of Insurance for consideration. (Docket #GC22.16, Exhibit #1)

Other Business

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

Executive Session

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

NATALIE A. HUBLEY
President

Attachments

Boston, Massachusetts
November 4, 2022



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PRESIDENT

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RECORDS OF MEETING

PERSONNEL COMMITTEE – OCTOBER 25, 2022

Members Present

Mr. John Olivieri, Jr. – Chair
Ms. Sarah Clemens
Mr. Thomas DePaulo
Ms. Mary McConnell
Mr. Christopher Taylor
Mr. David Zawilinski ⁽¹⁾

J.K. Olivieri Insurance Agency, Inc.
MAPFRE U.S.A. Corporation
Cabot Risk Strategies, LLC
Safety Insurance Company
The Hanover Insurance Company
Arbella Insurance Group

Substituted for:

⁽¹⁾Mr. William Hughes

Not in Attendance:

N/A

PC

22.01 Records of Previous Meeting

The Committee voted with two members in favor and four abstained to approve the Records of the Personnel Committee meeting of February 9, 2022. The Records have been distributed and are on file.

PC

22.08 CAR Internal Functional Responsibilities

Ms. Natalie Hubley presented a high-level organizational review of CAR's management structure and departmental responsibilities to familiarize new committee members with the organization's functional composition. She provided an explanation of plans to gradually merge and realign certain analytical and compliance functions as part of a succession plan with the anticipated retirement of several high-level employees over the next five to seven years.

PC

22.09 President's Performance Objectives

Ms. Hubley provided a progress report regarding her 2022 corporate performance objectives which were developed through advisory committee efforts and are reflected in CAR's 2022 Business Plan. Chair John Olivieri noted that the Committee would take the report under advisement in preparation for its annual review of the President's performance in February 2023. Among the many issues Ms. Hubley identified were the continuing efforts to improve commercial residual market results and the progress made in the last year. She also noted MAIP Application system enhancements, compliance oversight including focus audits to ensure data integrity, and enhancements and efficiency initiatives within the technical operations area.

Finally, she touched on non-business objectives such as continued succession planning and office space considerations which will remain as areas of focus in 2023.

The Committee was advised that development of 2023 organizational objectives are coordinated with the Budget and Governing Committees' recent approval of CAR's FY2023 Business Plan. Comments regarding potential business objectives not contained in the approved FY2023 Business Plan included a suggestion that, in the interest of further residual market depopulation, CAR consider opportunities to provide expanded company access to data from its own voluntary book of business. Staff agreed that, in light of advancements in data access technology, a review of data currently accessible to each company would be appropriate and enhancements could be referred to the Compliance and Operations Committee. After discussion, the Committee confirmed the 2023 corporate and non-business plan objectives.

TIMOTHY COSTAIN
Chief of Staff

Boston, Massachusetts
November 3, 2022



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PRESIDENT

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RECORDS OF MEETING

COMMERCIAL PROGRAM OVERSIGHT COMMITTEE – OCTOBER 27, 2022

Members Present

Mr. John Olivieri, Jr – Chair
Mr. Brian Hayes
Mr. David McCormick
Ms. Sharon Murphy

J.K. Olivieri Insurance Agency, Inc.
Quincy Mutual Group
McCormick & Sons Insurance Agency, Inc.
Acadia Insurance Company

Substituted for:
N/A

Not in Attendance:
Mr. Donald Bredberg, Norfolk and Dedham Group

CPOC

22.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Program Oversight Committee meeting of June 8, 2022. The Records have been distributed and are on file.

CPOC

22.05 Request for Reimbursement of Extraordinary Expense – Safety Insurance Company

Ms. Wendy Browne provided an overview of Safety Insurance Company's request for reimbursement of extraordinary expense of uncollected earned premium that Safety contends resulted directly from its actions pursuant to guidance from the Massachusetts Division of Insurance related to the COVID-19 Public Health Crisis in 2020. Ms. Browne noted that attached to the Notice of Meeting was documentation submitted by Safety in response to the Committee's request for additional information at its prior meeting.

Ms. Mary McConnell, representing Safety Insurance Company, provided the Committee with a synopsis of Safety's request for reimbursement of extraordinary expenses in the amount of \$379,684.17 submitted to CAR on February 18, 2022. The policies in question involve one policy effective May 27, 2019-May 27, 2020, with an uncollected balance of \$258,132, and a second policy effective May 27, 2020-August 3, 2020, with an uncollected balance of \$121,552.

Ms. McConnell explained that Safety chose to pursue reimbursement for the earned but uncollected premium on the two ceded commercial automobile insurance policies issued to one specific insured because it accounted for the majority of Safety's earned but uncollected premium in 2020. She further noted that neither policy would have incurred such a significant earned but uncollected premium balance absent the

accommodations put in place by Safety in response to the Division of Insurance directive to assist policyholders during the pandemic. She commented that Safety's earned but uncollected premium for that time period net of these two policies was 1.159% of premium, still well in excess of normal experience.

Ms. McConnell referred to Safety's submission, attached to the meeting materials, in which Safety provided additional information requested by the Committee at its March 29, 2022, meeting. Specifically, Ms. McConnell described the disposition of the policy just prior to the State of Emergency declaration, an accounting history of the May 2019 policy, and a description of the company's normal cancellation procedures in the absence of the COVID-19 pandemic. Further, Ms. McConnell advised that Safety had not received payment of the earned but uncollected premium from the risk to date on either policy.

Ms. McConnell described the activity on the policy effective May 27, 2019, noting frequent endorsement activity due to a large increase in the size of the insured's operations resulting in premium greater than twice that of prior policy terms. The complex risk often required discussion with the producer to verify vehicles and manual rating to ensure correct coverage effective and end dates. Ms. McConnell noted non-payment cancellation notices had been issued during the policy term, after which payments and endorsements were made to enable reinstatement. Ms. McConnell advised that immediately prior to Safety's nonpayment cancellation moratorium on March 23, 2020, the risk owed \$241,712.53 on the policy. During the moratorium, Safety received one payment of \$100,000, falling short of more than \$374,000 due. She advised that the policy expired on May 27, 2020 and was written through a new producer effective May 27, 2020.

Finally, Ms. McConnell advised that absent the accommodations made at the request of the Division of Insurance to address the public health crisis, Safety's procedures would result in approximately 7 weeks between initial bill and a non-payment cancellation.

The Committee observed the history of nonpayment for this risk, which often resulted in policy changes to minimize payment need, and eventual return to nonpayment status. Mr. Brian Hayes questioned the impact of the pandemic on the disposition of the 2019 policy. He noted the outstanding balance immediately prior to Safety's nonpayment cancellation moratorium and the 7 weeks that would normally transpire before cancellation would have taken the policy close to expiration. Mr. Hayes commented on the risk's move to another producer and opined that it was highly likely that there would have been a shortfall with this account regardless of the pandemic.

Ms. Sharon Murphy agreed and noted that on February 5, 2020, a cancellation notice for nonpayment was issued to be effective on February 27, 2020; however, on February 25, 2020, Safety made an accommodation on the cancellation accepting \$216,383 and reinstating the policy with outstanding earned but uncollected premium remaining. She observed that the circumstances were made more difficult because of the moratorium but that the shortfall was the result of prior accommodations made and otherwise would have cancelled prior to Safety's moratorium.

Ms. McConnell explained that the accommodations made by Safety were not the result of financial conditions indicating inability to pay, but rather because of significant endorsement activity on the policy, and a need to validate the accuracy of owed premium given the number of vehicles involved. She noted the complexity of the risk and that the company had no reason to anticipate that payments would not be made.

After discussion, Mr. Hayes suggested that the pandemic-related accommodations made by Safety were perhaps in rewriting the 2020 policy despite the unpaid premium. The Committee inquired further about activity on the second policy.

Ms. McConnell noted that collection of unpaid premium is the responsibility of the producer. She explained that Safety's normal procedures would result in cancellation due to prior unpaid premium approximately 3 weeks subsequent to policy issuance. She further explained that coverage was bound by the new producer effective May 27, 2020, but that the policy application and detailed information was not received by Safety until July 22, 2020. Ms. McConnell indicated that Safety then issued the policy, processed billing, and then issued a nonpayment cancellation notice to be effective August 17, 2020. The company was notified by the producer, subsequent to the cancellation notice, of a change of carrier and the policy was cancelled effective August 3, 2020. She also noted that it was her understanding that the risk had secured coverage in the voluntary market at that time.

Additional discussion ensued as to whether further confirmation from Safety's billing department, relative to the timeline of unpaid premium cancellation procedures, would benefit the Committee's discussion. The Committee concluded that the description of activity with respect to the 2020 policy did not indicate accommodations relating to the public health crisis. Accordingly, Mr. Hayes made a motion, which was seconded by Mr. David McCormick, to deny Safety's request for reimbursement of extraordinary expenses related to the COVID 19 directives from the Division of Insurance. On a roll call vote, the Committee voted unanimously in favor of the motion.

RICHARD DALTON
Residual Market Liaison

Boston, Massachusetts
November 4, 2022

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Massachusetts law guarantees the availability of motor vehicle insurance coverage to all qualified applicants who are unable to obtain such coverage through the voluntary market. To implement this mandate without imposing an undue hardship upon any insurance company or applicant and to create an atmosphere conducive to the efficient operation of the automobile insurance market, while safeguarding the consumer interests, an Association entitled Commonwealth Automobile Reinsurers (hereinafter CAR), is hereby created. This Plan is its charter and constitution.

The administration of CAR shall be vested in a Governing Committee under the supervision of the Commissioner of Insurance. The Governing Committee shall consist of thirteen individuals appointed by the Commissioner to terms of six years; six members to be from insurance companies participating in the Plan and one additional representative from a domestic insurer in the Commonwealth whose annual motor vehicle policy premium amounts to less than two and one-half percent of the private passenger insurance market and unaffiliated with any other insurance company represented on the Governing Committee, and six members to be from the associations of insurance producers, ~~two of whom shall be producers who are assigned risk producers who write private passenger automobile insurance exclusively through the Massachusetts assigned risk plan approved under Section 113H of Chapter 175 of the Massachusetts General Laws.~~

The provisions of Chapter ~~237-126~~ of the Acts of ~~2010-2022~~ shall not be construed so as to alter or amend the terms of the present Governing Committee members.

In the event that a company represented on the Governing Committee decreases its book of automobile business in the Commonwealth by more than ten percent from the previous calendar year, as determined by the Commissioner, the member representing such company shall cease to be a member of the committee and a new company and a member thereof shall be appointed to complete the former member's unexpired term. Not more than one insurer in a group under the same management shall serve on the committee at the same time. In making Governing Committee appointments, the Commissioner shall consider, among other things, whether the member companies and producers are fairly represented.

Meetings of the Governing Committee of the Plan shall be conducted in accordance with the provisions of Sections ~~18 through 25~~ ~~11A1/2~~ of Chapter 30A, of the Massachusetts General Laws. Meetings may be called by the Chairman, by written petition of four committee members, or by the

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Commissioner. Notice of such meetings shall be given by the Chairman to all committee members and the Commissioner.

The Governing Committee shall appoint a president, who shall serve as the full-time salaried administrator of CAR, and such other officers as it finds necessary for the proper operation of CAR. All appointments of officers shall be subject to approval by the Commissioner.

The Governing Committee shall prepare, in accordance with Article X of this Plan, Rules concerning the duties of officers, their terms of service, and their salaries.

CAR shall employ such staff and legal counsel as it finds necessary to carry out its functions. To assure that no conflict of interest prevents CAR's officers, staff, and legal counsel from performing their duties in the public interest, no officer or staff member may receive compensation from any other source and no counsel representing CAR may represent any member insurance company or association of insurance companies or producers unless these prohibitions are waived by three-fourths (3/4) consent of the members of the Governing Committee and the Commissioner. The Governing Committee shall prepare in accordance with Article X of this Plan, Rules providing for the indemnification against personal liability of individuals serving as members of the Governing Committee, other committees or as officers and staff of CAR.

The law requires that all insurance companies licensed to issue motor vehicle insurance in the Commonwealth must become members of CAR and shall abide by this Plan and CAR Rules of Operation. Member Companies shall be financially responsible for all losses and expenses incurred by CAR. The Governing Committee shall prepare, in accordance with Article X of this Plan, Rules providing for the fair and equitable distribution of those losses and expenses through the assessment of Member Companies. The Plan shall provide that the allocation of premiums, losses and expenses among companies for all policies issued during the first year of operation of the Plan shall be based on the total number of risks written by each company during the calendar year nineteen hundred and eighty-two, excluding risks written through designated producers. Adjustment and consideration may be given to those companies that, due to percentage of business ceded during the base year, fall at either extreme as a result of this method of allocating premiums, losses and expenses under this Plan. For policy years thereafter, the allocation shall be based on a method so that no company materially or substantially reduces its percentage of participation by reducing its writings, nor shall any company have their participation materially or substantially

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increased because of the action of other companies. Each Member Company shall report to CAR such information as the Governing Committee may reasonably require. In all instances, the services provided to risks insured by Servicing Carriers of this Plan shall be of identical kind and quality as those services provided to risks insured in the voluntary market.