



# COMMONWEALTH AUTOMOBILE REINSURERS

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RALPH A. IANNACO  
President

## SUMMARY OF MEETING

### PERFORMANCE STANDARDS SUBCOMMITTEE – NOVEMBER 2, 2005

#### Members Present

Mr. Francis N. Delage, Chairman	The Hanover Insurance Company
Mr. Robert Hallinan *	Plymouth Rock Assurance Corporation
Mr. Steven A. Jacobs	Arbella Mutual Insurance Company
Mr. Robert J. Kerton	Safety Insurance Company
Mr. James Mutschler	Liberty Mutual Group
Mr. Arthur J. Remillard, III	The Commerce Insurance Company
Mr. Robert D. Woods, Jr.	OneBeacon Insurance

#### Substituted for:

Mr. Francis P. Arment \*

#### Not in Attendance:

Ms. Kathleen H. Devericks,  
Mr. Joseph N. Pedi,

The Premier Insurance Company of Mass.  
Metropolitan P & C Insurance Company

**A motion was made by Mr. James Mutschler and seconded by Mr. Steven Jacobs to waive the ten-day notice of meeting.**

**The motion passed on a unanimous vote.**

#### **05.03 Performance Standards**

Mr. Francis Delage opened the meeting and recommended to the Subcommittee that it should discuss the scope of its charge prior to reviewing the specific exhibits prepared by staff. At issue is whether the Subcommittee should only address the directions specified in the Conclusion of the September 12, 2005 Decision on the Performance Standards or expand its focus to the other items mentioned in the Discussion and Analysis section. It was the consensus of the Subcommittee that, based on CAR Counsel Mr. Maher's had advised the Subcommittee at its October 12 meeting that the directions contained in the conclusion was the Order of the Commissioner of Insurance that CAR must follow, and therefore, should make its recommendations based on that direction as stated in the Conclusions. The other items in the Discussion and Analysis section could be considered but were not tantamount to an order of the Commissioner of Insurance. The Subcommittee concluded that other subjects commented on in the Decision including audits of ERPs and HLR ERPs, bodily injury claims evaluations and leakage were not included in the Conclusion and therefore not part of the mandate from the Commissioner of Insurance to CAR. If the Commissioner subsequently asks CAR to address these issues the

Subcommittee will do so. The Chairman Mr. Delage disagreed with the Subcommittee's approach but advised that since it was a consensus the meeting would proceed in that direction.

The Subcommittee then reviewed the requirement in the Decision that CAR should assess and compare the quality of claims handling among companies. The consensus recommendation was that beginning with the 2006 report a matrix of all the aggregate scores for the Procedure and Resolution standards in each section for all companies and the Industry should be published in the Annual Report of Compliance with the Performance Standards. Ms. Gedziun confirmed that the matrix would contain separate Procedure (90%) and Resolution (93%) scores for each carrier and the Industry for each section of the Performance Standards. The Subcommittee discussed whether any other additional measurements such as the Average Cost per Claim or DCD results should be used to compare companies' performance. It was the Subcommittee's opinion that average cost per claim measurements were dependent in part on factors outside the control of the claim department and that the results of the Performance Standards are the most effective means for comparing the quality of claim handling. In regard to the suggestion in the Decision that the format for internal audits be standardized, after discussion and a review of Rule 10 and the Manual of Administrative Procedures it was the consensus of the Subcommittee that no changes be made to CAR Rules as CAR will be reviewing internal audits in the course of its reviews.

The Subcommittee next reviewed the proposed language for Section IV Voluntary/Ceded Claims Handling Differential and the Measurements for that section. The measurements relating to the resolution of a claim (93% compliance benchmark) will be used to compare the handling of ceded and voluntary claims handling. An aggregate score for the three sections of the Standards that have resolution benchmarks – Physical Damage, PIP, and BI - will be calculated and a statistical test (Chi square) be used to determine if there is any statistically significant difference. If there is a difference CAR will review the reasons with the carrier and then decide if non-compliance exists. CAR staff was asked to prepare an analysis of the sampling technique and examples of the Chi Square statistical testing for the Claims Advisory Committee.

The Subcommittee next considered the requirement in the Decision that CAR submit a revised structure that imposes immediate financial penalties on companies that fail to meet the performance standards including, but not limited to, a formula for adjusting the allocated deficit share of those companies. CAR is also urged to take appropriate steps to develop a system to institute rewards for successful industry-wide efforts to reduce losses in the residual market. The consensus was that a separate aggregate score for Procedures (90%) and Resolution (93%) for each section should be calculated and that one penalty be assessed for each section in which non-compliance is found. The first year warning should be eliminated and the penalties should begin immediately for non-compliance. The Subcommittee reviewed the Proposed Penalty Provisions Exhibit which showed a variety of penalty amounts representing penalties per point of market share of the CAR deficit for each company. It discussed the fact that minimum penalties should be in place to insure that there is not a financial incentive for a Carrier to fail to meet compliance.

**A motion was made by Mr. Robert Kerton and seconded by Mr. James Mutschler to recommend that the penalty structure should be a dollar amount multiplied by the Carrier's market share as a whole number. The penalty schedule should have a multiplier of \$1,000 in for the first year, \$3,000 in the second year, and \$10,000 in the third year. In the fourth year of non-compliance the Carrier would be referred to the Governing Committee for possible disciplinary action. A minimum penalty of \$3500 in Year 1, \$7,500 in Year 2, and \$25,000 in Year 3 should also be established.**

**The motion passed on a unanimous vote.**

The Subcommittee recommends that the Governing Committee Chairman appoint a multi-disciplinary Committee to consider a reward system for successful industry-wide efforts to reduce losses in the residual market. CAR Staff was asked to update the Exhibit with the recommended values for the Claims Advisory Committee.

The Subcommittee next discussed the requirement in the Decision that CAR evaluate the effectiveness of the Performance Standards at meeting the statutory goals. The Subcommittee discussed the fact that the Performance Standards have been strengthened significantly, specifically by incorporating Industry Best Practices, NAIC requirements, an increased sample size, a random sample, an elimination of the warning year, penalties tied to the deficit share, and statistical testing of Voluntary/Ceded claims handling. It was the consensus of the Subcommittee that the Performance Standards, as proposed, are designed to meet the statutory goals and that the results of the 2006 CAR claim reviews will demonstrate this. The Subcommittee suggests that rather than wait for two years before reviewing the Standards they should be reviewed following the submission of the 2006 Annual Report to evaluate their effectiveness and determine if any changes need to be made.

On the subject of outside consultants, the Subcommittee did consider at both the initial meeting and final meeting whether it should recommend the hiring of an independent consultant. The Subcommittee felt that its recommendations were responsive to the Commissioner's Order and that it was not necessary to engage an independent consultant.

CAR staff was instructed to request an extension of the 60 days from the Division of Insurance, as previously approved by the Chairman of the Governing Committee, since its recommendations would be considered by the Claims Advisory Committee and Governing Committee subsequent to deadline of November 11, 2005.

VALERIE B. GEDZIUN  
Vice President – Claims

Boston, Massachusetts  
August 4, 2006