



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:**

**Tuesday, November 14, 2023, at 11:00 a.m.**

**GC**

**23.07 Compliance and Operations Committee**

The Records of the Compliance and Operations Committee meeting of November 1, 2023 are attached. (Docket #GC23.07, Exhibit #4)

The Records of the Compliance and Operations Committee meeting of November 1, 2023 have been distributed and are on file.

**GC**

**23.12 Commercial Automobile Committee**

The Records of the Commercial Automobile Committee meeting of October 27, 2023 are attached. (Docket #GC23.12, Exhibit #4)

The Records of the Commercial Automobile Committee meeting of October 27, 2023 have been distributed and are on file.

NATALIE HUBLEY  
President

Attachments

Boston, Massachusetts  
November 7, 2023



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## RECORDS OF MEETING

### COMPLIANCE AND OPERATIONS COMMITTEE – NOVEMBER 1, 2023

#### Members Present

Ms. Erin Cummings– Chair	Norfolk and Dedham Group
Ms. Kara Boehm	Allstate Insurance Company
Mr. Thomas Harris	Quincy Mutual Group
Ms. Annmarie Hassan	Arbella Insurance Group
Ms. Sharon Murphy	Acadia Insurance Company
Mr. Kenneth Olivieri	J.K. Olivieri Insurance Agency, Inc.
Mr. Henry Risman	Risman Insurance Agency, Inc.
Mr. Barry Tagen	Pilgrim Insurance Company
Mr. Christopher Taylor	The Hanover Insurance Company
Ms. Brenda Williams	MAPFRE U.S.A. Corporation

Substituted for:  
N/A

Not in Attendance:  
Ms. Nicole Martorana, FBInsure, LLC

#### 23.01 Records of Previous Meeting

On a roll call vote, the Committee unanimously voted to approve the Records of the Compliance and Operations Committee meeting of September 6, 2023. The Records have been distributed and are on file.

#### 23.04 Informational Items

Ms. Wendy Browne informed the members that the proposed changes to Chapter III.B.4 pertaining to the implementation of a penalty program to enforce the timely reporting of Interim Summary data, and the addition of language relative to this penalty program in Chapter X.D.2 of the Assigned Risk Company (ARC) Procedures Manual, were approved by the Governing Committee at its September 20, 2023 meeting. Those changes have been incorporated into the ARC Procedures Manual that is available on CAR's website. In addition to the publication of a bulletin, Ms. Browne also noted that the two newly writing companies that report interim summary data have been informed of the penalty program for late Interim Summary submissions.

### 23.05 Compliance Audit Program

Mr. Matthew Hirsh presented Hybrid Audit (HAP) results for AIG. Mr. Barry Tagen of Pilgrim recused himself from participating in discussion regarding the audit results. Mr. Hirsh stated that AIG has a Limited Assignment Distribution Agreement (LADA) with Pilgrim Insurance and thus the audit sample included data reported by both AIG and Pilgrim. He also noted that AIG has a separate contractual agreement with Pilgrim in which Pilgrim completes all voluntary Massachusetts automobile underwriting responsibilities on behalf of AIG, including the statistical reporting of quota share and ratemaking data. AIG manages all claims responsibilities.

For sampled Pilgrim policies, the audit scope included \$240,000 in written premium. Associated loss dollars, including paid losses and allocated loss adjustment expenses, totaled \$679,000. Mr. Hirsh noted that there were no recurring statistical reporting issues identified in the MAIP sample, and that Pilgrim was compliant with the Lane-Bolling statute, with the Claims Performance Standards review, and with the SIU evaluation, including providing CAR with the required CAR Rule 32.C.2. SIU-completed audits of garaging and policy facts.

For sampled AIG policies, the audit scope included \$966,000 in written premium. Associated loss dollars, including paid losses and allocated loss adjustment expenses, totaled \$782,000. Mr. Hirsh noted four recurring premium-related statistical reporting issues and five recurring claims related statistical reporting issues not in compliance with the Statistical Plan. He also referenced that, in its response letter, AIG indicated that it will provide additional training to its claims team to ensure payments are reported accurately. Mr. Hirsh noted that AIG was compliant with the Claims Performance Standards review. However, AIG was determined not in compliance with the requirements applicable to the SIU.

Mr. Mark Alves explained that Massachusetts G.L. c. 175 § 113H requires that all ARCs maintain a specific investigative unit to evaluate suspicious motor vehicle insurance claims for the purpose of eliminating fraud. This statute also requires that CAR monitor the effectiveness of the company's fraud control efforts. In addition to the statute, SIU standards and audit procedures of the SIU are documented in the Claims Performance Standards and Article III of CAR's Plan of Operation. Changes to either document require approval by the Governing Committee and Division of Insurance. Appendix J: CAR SIU File Review Process requires 25 claims or underwriting referrals to the SIU for investigation for use as the audit testing sample.

The AIG audit sample scope included data reported between July 2021 and June 2022. AIG did not have the minimum required 25 claims or underwriting referrals to the SIU for the sampled period. Mr. Alves discussed prior committee deliberations that confirmed that any company with less than 25 referrals to the SIU for investigation shall be determined not in compliance with the SIU statutory requirement at the time of audit. Those deliberations concluded with staff also being directed to communicate with low market share companies to encourage special investigations opportunities that demonstrate effort towards compliance. In response, CAR staff developed a standardized alternate methodology to achieve compliance with the intent of the statute and has distributed it to multiple ARCs since 2018. AIG was provided the alternate methodology in January 2022 but did not complete the requirements as specified. Based on the lack of referrals to the SIU for investigation and the prior committee decision that a minimum of 25 referrals is necessary to audit, CAR determined AIG as not compliant with the SIU requirement measured in the Hybrid Audit.

On a roll call vote, the Committee unanimously accepted the report and directed staff to conduct a focus audit of AIG in 2025 to retest the effectiveness of AIG's SIU in accordance with the procedures detailed in Appendix J of the Standards. The Committee also directed staff to notify AIG that a finding of

continued non-compliance would result in penalties in accordance with the Schedule of Penalties in the Measurements and Penalties section of the Performance Standards.

Mr. Alves then provided an overview of the recently completed reinsurance audits of commercial ceded loss data reported by current and prior Servicing Carriers. The audit system identifies all potential duplicate payments reported using accounting dates and claim statistical data. He noted that CAR's intent is to clear all potential duplicate payments from the system in advance of the planned restart of commercial statistical auditing in 2024.

CAR obtained system access to review the claims history and documentation to determine if a duplicate loss record existed. All companies received status reports that included explanations of each potential audit exception and were provided a period to review the results. If not in agreement with an audit finding, the audited company provided a response and additional documentation, if necessary. After reviewing the comments and documentation, CAR staff then made a final determination. In instances in which the error remained, the company was requested to offset the record accordingly. Mr. Alves noted that staff will continue to monitor statistical reporting to verify that any remaining offsets are completed.

MATTHEW HIRSH  
Compliance Audit Supervisor

Boston, Massachusetts  
November 6, 2023



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## RECORDS OF MEETING

### COMMERCIAL AUTOMOBILE COMMITTEE – OCTOBER 27, 2023

#### Members Present

Mr. Thomas DePaulo – Chair	Cabot Risk Strategies, LLC
Mr. Thomas Bird <sup>(1)</sup>	Acadia Insurance Company
Mr. Michael Brady <sup>(2)</sup>	Pilgrim Insurance Company
Ms. Annmarie Castonguay	The Hanover Insurance Company
Ms. Mary McConnell	Safety Insurance Company
Mr. John Olivieri, Jr.	J.K. Olivieri Insurance Agency, Inc.
Mr. Tiago Prado	BRZ Insurance, LLC
Mr. Thomas Skelly, Jr.	Deland, Gibson Insurance Associates, Inc.
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.
Mr. David Zawilinski	Arbella Insurance Group
Mr. Jesse Zimmerman	MAPFRE U.S.A. Corporation

#### Substituted for:

<sup>(1)</sup>Ms. Sharon Murphy

<sup>(2)</sup>Mr. Barry Tagen

#### Not in Attendance:

N/A

#### 23.01 Records of Previous Meeting

On a roll call vote, the Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of July 18, 2023. The Records have been distributed and are on file.

#### 23.04 Eligibility of Peer-to-Peer Vehicle Sharing Programs

The Committee continued discussion regarding the eligibility for cession of risks engaged in peer-to-peer vehicle sharing programs. Ms. Natalie Hubley noted that Mr. Nick Fyntrilakis of MAIA was in attendance and could offer additional information regarding coverage concerns experienced by his constituents. Mr. Fyntrilakis noted that, while some coverage is available through the vehicle sharing platforms, the coverage is limited to when the vehicle is being shared. However, if a loss occurs while the vehicle is shared, then the carrier providing coverage for the insured's own personal or commercial use of the vehicle will cancel or non-renew the policy due to the exclusion provisions of the policy, including endorsements. Mr. Fyntrilakis also noted that businesses and individuals with fleets of vehicles used for

peer-to-peer vehicle sharing are unable to secure coverage in the commercial voluntary or residual market. He questioned why these fleets are not eligible for the leasing or rental concern classification. Ms. Laura Poulin added that the coverage provided through the platform may not be requested or may be inadequate and suggested that the Committee consider an endorsement providing excess coverage while the vehicle is being shared.

CAR counsel reported on the status of the legislative activity related to this issue. Mr. Steven Torres advised that the most recent iteration of the bill has been referred to the Transportation Committee by both the House and the Senate. It is not expected that legislation will emerge by year-end. He noted that the most recent iteration contains substantial provisions concerning insurance including exclusions, types of coverage, and the entity or persons who should be procuring coverage. In addition, the bill addresses indemnification and primary insurance, and it creates authorization for the Commissioner of Insurance to promulgate rules that will be consistent with the legislation.

Some members recommended waiting until the legislation is passed, suggesting that the voluntary market may address the coverage gaps described by MAIA. Others expressed concern that individuals and businesses engaged in this activity are operating uninsured or underinsured and that legislative action is likely to be slow. Therefore, these members recommended developing policies and procedures for coverage that may be modified when the legislature acts.

Discussion ensued during which several questions, comments, and suggestions were raised for further discussion, including:

- The role of the residual market in bridging coverage gaps,
- Prudence of waiting for legislative action to define insurance requirements and parameters,
- Opportunity to survey member companies to evaluate voluntary coverage availability and market need,
- Clarification of the eligibility definitions in the private passenger and commercial residual markets with respect to incidental personal use versus real commercial entities,
- Commercial versus personal registration requirements,
- Eligibility of private passenger type vehicles and other commercial vehicle types,
- Excess coverage versus coverage gaps,
- Parameters for driver evaluation and vehicle use,
- Status on availability of coverage in other states' residual markets. Further evaluation of pending legislation.

After discussion, the Committee agreed to further discuss the above issues at its next meeting.

### **23.06 Implementation of Commercial Policy Coverage and Endorsement Forms**

At the July 18, 2023 meeting, the Committee unanimously voted to implement new policy coverage and endorsement forms coinciding with the next Servicing Carrier appointment term. In accordance with the implementation schedule, CAR staff presented drafts of the related manual rule amendments for Section I – General Rules and Section II – Common Coverages of the Commercial Automobile Insurance Manual.

Ms. Wendy Browne began the discussion by reiterating the staff's goals and implementation schedule for the Committee, detailing CAR's plans to present their amendments of the Commercial Automobile Insurance Manual in sections over the course of the next few meetings for the Committee's approval. Ms. Browne expressed the importance of reaching the targeted February 2024 completion date for presentation to the Governing Committee, so that the Rule and Rate filings can be reviewed and

approved by the Division of Insurance in 2024 to ensure Servicing Carriers have ample time to prepare for these changes by the January 1, 2027 effective date. She also noted that the Committee did not need to approve the changes for each section as the Committee would have the opportunity to approve the entire manual after all sections have been presented. This will allow CAR staff to take the Committee's feedback for individual sections into consideration and make changes accordingly.

Ms. Browne then outlined the amendments to Section I – General Rules, highlighting the addition of a new subsection listing the approved coverage forms that had not been previously included, as well as modifications to include appropriate endorsement references, and added language to address various forms and eligibility requirements relevant to procedures recommended for further specification. Ms. Browne also noted staff's intent to create an appendix that lists all policy and endorsement forms, providing readers with a complete list including the versions currently on file for use and eliminating the need to refer to the Manual of Administrative Procedures for this information. At this time, the Committee had no comments or feedback for the amended Section I, but Ms. Browne encouraged committee members to reach out to CAR should any questions or concerns arise.

Ms. Katy Proctor reviewed the amendments to Section II – Common Coverages and Rating Procedures for the Committee, outlining the addition of references to specific endorsements, language modifications for consistency, and further changes consistent with the AIB's updated Commercial Automobile Insurance Manual. She noted that staff had already identified an additional change that was needed for this section to reference an endorsement that is applicable to all coverages. At this time, the Committee had no additional comments or questions regarding the presented amendments to Section II.

Mr. DePaulo noted consensus of the Committee for conceptual approval of the amendments to these sections, allowing CAR to move forward with preparing additional sections of the Commercial Automobile Insurance Manual for presentation at the next CAC meeting on December 8<sup>th</sup>, 2023.

### **23.07 2024 Prioritization of Objectives**

Ms. Browne reviewed an exhibit outlining commercial residual market topics identified for committee discussion and prioritization for the upcoming year. She noted that the list was compiled from prior committee discussions, recent Servicing Carrier annual reports, and other items brought to staff's attention. The list included issues related to classification including the default radius, garage keepers coverage, pollution liability coverage in conjunction with the MCS-90 and MCS-90B forms, principal place of business eligibility questions regarding the remote work environment, non-fleet private passenger certification, and cost of hire coverage. Ms. Browne also highlighted an issue relating to differences in bus classifications between bus NOC and school buses that CAR has recently been made aware of by both agents and companies.

Staff recommended the Committee consider prioritizing the classification, pollution liability, and principal place of business topics. The Committee reviewed the list of objectives and was in agreement with staff's recommendation as the starting point to begin at the next meeting.

TIMOTHY GALLIGAN  
Director of Actuarial and Statistical Services

Boston, Massachusetts  
November 7, 2023