



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 at the Automobile Insurers Bureau Conference Center at 101 Arch Street, 7<sup>th</sup> Floor, Boston, on

**TUESDAY, JUNE 18, 2024, AT 10:30 A.M.**

#### MEMBERS OF THE COMMITTEE

Mr. John Olivieri, Jr., – Chair  
J.K. Olivieri Insurance Agency, Inc

Ms. Pamela. Bodenstab-Krynicky  
Ms. Sarah Clemens  
Mr. Kevin Costigan  
Mr. Thomas DePaulo  
Mr. Thomas Harris  
Mr. William Hughes  
Ms. Ida Denard Jones  
Ms. Nicole Martorana  
Ms. Mary McConnell  
Mr. Tiago Prado  
Mr. Christopher Taylor  
Ms. Meredith Woodcock

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

#### AGENDA

**GC**

##### **24.01 Transcript of Previous Meeting**

The Transcript of the Governing Committee meeting of April 9, 2024 should be read and approved.

**GC**

##### **24.03 CAR Conflict of Interest Policy**

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

**GC**

**24.04 President's Report**

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

**GC**

**24.05 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**

**24.06 Commercial Automobile Committee**

The Governing Committee will hear the report of the Commercial Automobile Committee meeting of May 23, 2024.

The Records of the Commercial Automobile Committee meeting of May 23, 2024 are attached (Docket #GC24.06, Exhibit #5).

The Records of the Commercial Automobile Committee meeting of May 23, 2024 have been distributed and are on file.

**GC**

**24.07 Actuarial Committee**

The Governing Committee will hear the report of the Actuarial Committee meeting of May 28, 2024.

The Records of the Actuarial Committee meeting of May 28, 2024 are attached (Docket #GC24.07, Exhibit #2).

The Records of the Actuarial Committee meeting of May 28, 2024 have been distributed and are on file.

**GC**

**24.08 Commercial Program Oversight Committee**

The Governing Committee will hear the reports of the Commercial Program Oversight Committee meetings of April 25, 2024 and May 29, 2024.

The Records of the Commercial Program Oversight Committee meeting of April 25, 2024 are attached (Docket #GC24.08, Exhibit #2). The Records of the May 29, 2024 meeting will be distributed as additional information prior to the meeting.

The Records of the Commercial Program Oversight Committee meetings of April 25, 2024 have been distributed and are on file.

**GC**

**24.12 Loss Reserving Committee**

The Governing Committee will hear the report of the Loss Reserving Committee meeting of June 5, 2024.

A Summary of the Loss Reserving Committee meeting of June 5, 2024 will be distributed as additional information prior to the meeting.

**GC**

**24.14 MAIP Steering Committee**

The Governing Committee will hear the report of the MAIP Steering Committee meeting of May 30, 2024.

The Records of the MAIP Steering Committee meeting of May 30, 2024 will be distributed as additional information prior to the meeting.

**GC**

**24.15 Market Review Committee**

The Governing Committee will hear the report of the Market Review Committee meeting of April 9, 2024.

The Records of the Market Review Committee meeting of April 9, 2024 are attached (Docket #GC24.15, Exhibit #1).

The Records of the Market Review Committee meeting of April 9, 2024 have been distributed and are on file.

**GC**

**24.16 Governing Committee Review Panel**

The Governing Committee will hear the report of the Governing Committee Review Panel meeting of April 30, 2024.

The Records of the Governing Committee Review Panel meeting of April 30, 2024 are attached (Docket #GC24.16, Exhibit #1).

The Records of the Governing Committee Review Panel meeting of April 30, 2024 have been distributed and are on file.

**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 HUBLEY  
President

**Attachments**

Boston, Massachusetts  
June 6, 2024



NATALIE A. HUBLEY  
PRESIDENT

## COMMONWEALTH AUTOMOBILE REINSURERS

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### RECORDS OF MEETING

#### COMMERCIAL AUTOMOBILE COMMITTEE – MAY 23, 2024

##### Members Present

Mr. Thomas DePaulo – Chair  
Mr. Andrew Denton<sup>(1)</sup>  
Ms. Sheila Doherty  
Ms. Lily Galarneau<sup>(2)</sup>  
Ms. Mary McConnell  
Ms. Sharon Murphy  
Mr. John Olivieri, Jr.  
Mr. Barry Tagen  
Mr. David Zawilinski  
Mr. Jesse Zimmerman

Cabot Risk Strategies, LLC  
Deland, Gibson Insurance Associates, Inc.  
Doherty Insurance Agency, Inc.  
The Hanover Insurance Company  
Safety Insurance Company  
Acadia Insurance Company  
J.K. Olivieri Insurance Agency, Inc.  
Pilgrim Insurance Company  
Arbella Insurance Group  
MAPFRE U.S.A. Corporation

Substituted for:

<sup>(1)</sup>Mr. Thomas Skelly, Jr.

<sup>(2)</sup>Ms. Annmarie Castonguay

Not in Attendance:

Mr. Tiago Prado, BRZ Insurance, LLC

#### 24.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Automobile Committee meeting of March 28, 2024. 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. Wendy Browne provided the Committee with an update on the results of the survey CAR had distributed to various companies at the request of the Committee to assess how the voluntary market currently approaches coverage for vehicle sharing programs. Twenty-nine respondents answered the survey, with 21 respondents reporting that they do not provide any coverage under any circumstances for peer-to-peer vehicle sharing. Six companies in the Private Passenger marketplace provide coverage for the insured's personal use of vehicles that engage in vehicle sharing, although coverage is excluded when the

vehicle is engaged in vehicle sharing. Two companies in the commercial marketplace reported having endorsements for peer-to-peer vehicle sharing as a commercial risk. Ms. Browne noted that while it is not widely available, coverage is available in the voluntary market to address concerns raised by the Committee. In response to a request to identify those carriers providing coverage, Ms. Browne noted that survey participants were assured that the results of the survey would remain confidential. She commented that she would reach out to those carriers providing coverage, and, if they are so inclined, she will forward that information as requested.

Ms. Browne also updated the Committee regarding the status of filed legislation addressing peer-to-peer vehicle sharing programs. She advised that bills this year do not appear to be moving forward and would have to be reintroduced at a later date to be addressed by the state legislature.

Recognizing that coverage is available in the voluntary market, the Committee considered whether further discussion of this issue should be tabled until there is a compelling reason to do so, such as the legislature addressing insurance requirements. However, members indicated their preference to better understand the coverage afforded in the voluntary market, particularly for vehicles while engaged in vehicle sharing, to ensure that the needs of the motoring public are being met. Others noted difficulty experienced in getting cooperation from the vehicle sharing platforms to coordinate coverage when a loss has occurred. To that end, staff was asked to solicit the master coverage forms.

### **23.09 Consistency in Determining Classification**

The Committee continued its discussion on issues relating to reported inconsistencies among Servicing Carriers in determining the classification of certain public vehicle risks.

Ms. Lynne Rosenberg presented a draft of the amendments to Chapter X of the Manual of Administrative Procedures reflecting the Committee recommendation to assign the bus NOC classification when supporting documentation is not available at policy inception. She noted that the standard further requires reclassification and rerating under certain circumstances when documentation is later available.

Mr. Antonio Rea, representing Center Insurance Agency, raised concerns with the significant difference in pricing of the bus NOC class and the impact to new school bus or social service operations bidding to secure contracts. He further noted the inconsistency among Service Carriers in classifying this business and the impact to his agency in losing an opportunity to write this new business. He asked the Committee to consider the rigorous process required to obtain a SPN plate to support the use of the school bus classification for these vehicles.

Committee members noted that these new operations do not always secure the contracts that they are seeking and therefore the NOC class would be appropriate. The Committee noted that the proposed standard is designed to address both concerns raised by Mr. Rea by ensuring consistency among carriers and allowing for reclassification and rerating of these new operations when contracts are secured. Furthermore, if inconsistencies in the underwriting process continue to occur once a change to the standard has been implemented, the Committee will consider additional repercussions for non-compliance. After discussion, **the Committee voted unanimously to recommend to the Governing Committee adoption of the amendments to Chapter X – Servicing Carrier and Exclusive Representative Producer Standards and Forms of the Manual of Administrative Procedures.**

Next, Mr. Timothy Galligan noted that, at the last meeting, the Committee recommended classifying vehicles owned by day care centers as bus NOC. Mr. Galligan reviewed proposed changes to the rating manual rules and Chapter III of the MAP to reflect this clarification. Mr. Barry Tegen suggested enhancing the proposed language to include “buses owned and operated by or for day care centers”. Ms.

Hubley noted that the social services classification includes transporting children to daycare centers. She suggested that the Committee further consider the suggested change at its next meeting when the rule may be reviewed in its entirety. Ms. Poplawski suggested also considering adult day care operations in this rule as well.

Lastly, Ms. Katy Proctor noted that, at the last meeting, the Committee had asked staff to review other states' residual markets to help assist with defining the term "operates" in Rule 72.C.2. that uses the highest rated territory of operation through which or in which the public automobile operates. The Committee suggested that "operates" could apply only when the vehicle is transporting clients to define the highest rated territory, or it could be defined even when there are no clients in the vehicle on the way to or from the garaging town. Ms. Proctor reviewed a summary of the 22 states that were included in their research, noting that the results indicate a wide range on how other residual markets handle the determination of territory for other than zone rated vehicles, concluding that there was no real consensus.

Mr. Tagen suggested adopting language similar to the New Jersey plan in which operations are defined as operating from when passengers are picked up and dropped off. The Committee conceptually agreed and directed Staff to update related Rules and Procedures for consideration at the next meeting.

#### **24.04 On Hook Towing Coverage**

Ms. Proctor presented relevant excerpts from the on-hook coverage endorsement CA 04 52 that included when on-hook coverage should be applied and the definition of towing operations to assist the Committee in clarifying when coverage should be applied. Ms. Proctor then reviewed the updated proposed manual rule highlighting the addition of language to address concerns raised at the last meeting. Specifically, the language describes that risks engaged in auto hauling or trucking operations are not eligible for on-hook coverage. Ms. Proctor concluded that, if approved, modifications will be made to the Garagekeepers Insurance section in Section V – Garage Dealers of the Commercial Auto Insurance Rating Manual in conjunction with CAR's next rate filing.

**The Committee voted unanimously to recommend to the Governing Committee the adoption of the On-Hook Coverage Endorsement CA 04 52 with the earlier effective date, including the proposed rule change to the Massachusetts Commercial Automobile Rating Manual.**

TIMOTHY GALLIGAN  
Actuarial and Statistical Services Director

Boston, Massachusetts  
May 31, 2024

**CAR**  
**Chapter X**  
**Manual of Administrative Procedures**  
**Servicing Carrier and Exclusive Representative**  
**Producer Standards and Forms**  
**Revision Date** **2024.04.09****Draft 2024.05.23**  
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**C. Standards for Determining and Validating ~~Radius Class and Geographic~~ Classification of Trucks, Tractors and Trailers and Public Automobiles**

**1. Use Classification**

**Public Buses**

In instances where an applicant is unable to provide credible records prior to policy inception to validate the use of the bus, the Servicing Carrier will assign the bus NOC class.

However, if the risk has been in operation for less than one year and provides credible documentation to validate a different use class within 60 days of the effective date of the policy, the Servicing Carrier will reclassify the vehicle and apply the rating change as of the effective date of the policy.

**2. Radius and Geographic Classification**

To properly classify trucks, tractors and trailers and public automobiles, CAR's Commercial Automobile Insurance Manual directs that principal garaging and principal operation are factors used to determine radius and geographic classification as follows:

	<u>Principal Garaging</u>	<u>Principal Operation</u>
Radius Classification	TTTs and Publics	TTTs and Publics
Zone Combination	Zone Rated TTTs and Publics	Zone Rated TTTs and Publics
Rating Territory	Non-Zone Rated TTTs	Non-Zone Rated Publics

Pursuant to Rule 20 – How to Classify Automobiles of CAR's Commercial Automobile Insurance Manual, upon request of the Servicing Carrier, the applicant shall be required to substantiate with permanent records that the automobile is being used as set forth in the application or renewal questionnaire.

Servicing Carriers and Exclusive Representative Producers (ERPs) will validate an automobile's principal place of garaging and principal geographic area of operation to determine radius and geographic classification as follows:

**† a. Determining and Validating Principal Garaging**



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**Chapter X**

**Manual of Administrative Procedures**  
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Principal garaging is the location at which the automobile is garaged the majority of the time that the automobile is not in regular use. Servicing Carriers and ERPs may use, but are not limited to, the following tools to verify principal garaging:

- ~~a.~~ 1) Google Maps
- ~~b.~~ 2) Registry of Motor Vehicles
- ~~c.~~ 3) Secretary of the Commonwealth Corporations Division website
- ~~d.~~ 4) The risk's website
- ~~e.~~ 5) Federal Motor Carrier Services Administration (FMCSA) website

In the event that inconsistencies are identified during the course of the underwriting and/or SIU review, the applicant must provide credible documentation, such as lease agreements or property owner certification, to validate garaging as represented on the application.

~~2.~~ b. Determining and Validating Principal Operation

To properly classify Trucks, Tractors and Trailers and public automobiles, Servicing Carriers and ERPs shall take advantage of, but not be limited to, the following options to validate an automobile's principal geographic area of operation:

- ~~a.~~ 1) Form IFTA-101 – IFTA Quarterly Fuel Use Tax Schedule
- ~~b.~~ 2) Individual Vehicle Mileage Reports
- ~~c.~~ 3) Trip Logs
- ~~d.~~ 4) Central Analysis Bureau (CAB) reports
- ~~e.~~ 5) Safety and Fitness Electronic Records (SAFER)
- ~~f.~~ 6) SafeStat Systems
- ~~g.~~ 7) Executed service provider contracts

Based on the documentation indicating automobile operations furnished by the applicant, rating territory for the local and intermediate radius public classes will be determined using the rating territories as defined in CAR's Commercial Automobile Insurance Manual with common rate relativities.

**CAR**  
**Chapter X**

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In particular, the Boston territory is defined by the combined territories 1-10, which are combined for rating purposes, while identified in the manual individually for statistical purposes.

**3. c.** Determining Radius and Geographic Class in the Absence of Credible Verifiable Documentation

The Servicing Carrier may also request the risk and/or ERP to provide additional information to validate garaging and/or operations. An SIU investigation may also be requested. As part of the underwriting process and/or SIU investigation, the risk's principal/owner will be required to corroborate information collected by the writing ERP.

In instances where an applicant is unable to provide credible permanent records to validate an automobile's principal garaging and/or principal radius of operation, the Servicing Carrier will determine radius and geographic class that generates the higher resulting premium of the two options below as follows:

	<u>Option 1</u>
Radius Class	Intermediate Radius
Rating Territory	Assign Highest Rated Territory

	<u>Option 2</u>
Radius Class	Long Distance Radius
Zone Combination	Boston to Los Angeles (218)

However, if the risk has been in operation for more than one year and provides credible documentation to validate a different radius class and/or geographic classification during the policy term, apply the rating change prospectively from the date the documentation is provided.

If the risk has been in operation for less than one year and provides credible documentation to validate a different radius class and/or geographic classification at least 90 days prior to policy expiration, apply the rating change as of the effective date of the policy. However, if the documentation is provided within 90 days of the policy's expiration date, the rating change would be applied as of the effective date of the renewal policy.

**4. d.** Exceptions

Businesses engaged in certain operations have inherent difficulty in securing documentation to substantiate an automobile's radius and/or

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geographic classification. Such operations include farmers, contractors, van pools, and school and church buses. For these vehicles, Servicing Carriers may use their discretion to evaluate and determine radius and geographic classification.

~~5.~~ e. Principal Garaging and Operation Audits

Pursuant to Rule 10 – Claims of CAR’s Rules of Operation, Servicing Carriers are required to conduct audits on representative samples of policies to verify garaging and policy facts.

However, market conditions may warrant increased awareness and focus on specific classifications of business due to suspected fraud, increased loss experience, or other negative impacts on the commercial automobile residual market during the Servicing Carrier contract period. If such occasions occur, the specific classifications will be identified, through CAR’s committee process, for mandatory Servicing Carrier SIU investigations involving principal garaging and operations.

The industry will be notified, via a CAR Bulletin, of the specific classifications for which enhanced focus on validating the eligibility of principal garaging and operation is required.

**D. Standards for the Verification of Applicant Drivers’ Licenses**

In determining whether an applicant is eligible for placement in the commercial automobile residual market, Servicing Carriers and Exclusive Representative Producers are required for all new business to verify that the applicant establishes that any person who usually drives the motor vehicle(s) holds or is eligible to obtain a valid driver’s license.

However, with respect to non-fleet private passenger type business, Servicing Carriers and Exclusive Representative Producers are required to verify for all new and renewal business, that the applicant establishes that any person who usually drives the motor vehicle(s) holds or is eligible to obtain a valid driver’s license.

1. Driver Eligibility

a. Foreign Licensed Drivers

A person who holds a valid foreign driver’s license is eligible for placement in the commercial automobile residual market and, if the foreign driver’s license is not in English, he/she must either provide a valid International Driving Permit or an alternative translation document, such as a completed Registry of Motor Vehicles Translation into English of a Foreign Driver License form, as set forth in Appendix A of the Massachusetts Driver’s Manual published by the Registry of Motor Vehicles.

<b>CAR</b> <b>Section VI</b> <b>Effective Date</b> <b>Page</b>	<b>Commercial Automobile Insurance Manual</b> <b>Garage Dealers</b> <b>2023.12.01</b> <b>5 of 10</b>
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**RULE 90. ADDITIONAL PROVISIONS**

A. Elevators and Escalators

Liability Coverage for elevators and escalators is included. A charge shall be made for legally required inspections made by or for the company.

- B. To extend the policy to apply to the liability of a political subdivision in connection with certain permits it may require at the premises of the named insured, use Additional Insured (Municipalities) Endorsement MM 25 98.

***RULES 91-94 RESERVED FOR FUTURE USE.***

**II. GARAGEKEEPERS INSURANCE**

**RULE 95. ELIGIBILITY**

- A. Garagekeepers insurance may be issued only to a single garage owner or operator described in this Section. Do not group two or more garage owners or operators in a single policy.

- B. To provide coverage for damage to, or loss of, a customer's auto or customer's auto equipment left in the insured's care as part of the insured's towing operation, use On-hook Coverage Endorsement CA 04 52. Do not attach when Garagekeepers' Insurance is provided under the Business Auto Form unless insured's towing operations include transporting between locations other than insured's specified locations. On-hook coverage is for insureds who do not have garage or service locations, or who have a towing operation not associated with their own garage operations and are not engaged in Auto Hauling or Trucking operations. Use the garagekeepers' legal liability coverage premium and apply 5% to the Comprehensive rate and 90% to the Collision rate.

**RULE 96. PREMIUM DEVELOPMENT**

- A. Determine the type of coverage to be afforded:

1. Legal Liability
2. Direct Coverage – primary basis (without regard to legal liability)



NATALIE A. HUBLEY  
PRESIDENT

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### RECORDS OF MEETING

#### ACTUARIAL COMMITTEE – MAY 28, 2024

##### Members Present

Ms. Sarah Clemens – Chair	MAPFRE U.S.A. Corporation
Mr. Joshua Huang <sup>(1)</sup>	Allstate Insurance Group
Mr. Todd Lehmann	Quincy Mutual Group
Ms. Lynellen Ramirez	Arbella Insurance Group
Mr. Christopher Walendin <sup>(2)</sup>	Safety Insurance Company
Mr. Jaris Wicklund	The Hanover Insurance Company
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.
Ms. Meredith Woodcock	Liberty Mutual Insurance Companies
Mr. Joshua Wykle	Vermont Mutual Insurance Group
Mr. Hao Zhang	Plymouth Rock Assurance Corporation

##### Substituted for:

Ms. Kara Boehm<sup>(1)</sup>  
Mr. Glenn Hiltbold<sup>(2)</sup>

##### Not in Attendance:

Mr. Tiago Prado, BRZ Insurance

#### 24.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Actuarial Committee meeting of January 17, 2024. The Records have been distributed and are on file.

#### 24.07 Quota Share Credits for Policies Effective April 1, 2025 and Later

The Actuarial Committee began discussions relative to the April 1, 2025 Quota Share credit offer. To initiate discussion, Mr. Timothy Galligan reviewed reports typically provided to the Committee for their annual review including the formulaic credit indications, as well as exhibits displaying historical data by class and territory including exposures, residual market shares, relativities to the state-wide average residual market share, and loss ratios.

The Committee also reviewed summarized agency assignment statistics to evaluate whether certain agency demographics were contributing more to MAIP assignment growth from policy year 2022 to 2023. Mr. Galligan explained that 13 agencies have consistently written approximately half of all assignments. It was noted that the exhibits identify two agencies that have experienced ten- and twelve-fold increases in assignment volume. Ms. Natalie Hubley advised that the Governing Committee has directed the MAIP

Steering Committee to discuss the current status of the market and to evaluate whether Rules and procedures may be strengthened to address the volume concerns. To that end, she indicated that the information will be provided to the MAIP Steering Committee for their deliberations.

Next, the Committee reviewed and discussed an exhibit displaying the historical MAIP retention rates by year, including statistics identifying the volume of assignments rated with company or MAIP rates. One member noted that historically 50% of assignments were MAIP-rated, however, recently that statistic has grown to 65%.

A general discussion ensued about the factors driving the volume of business in the MAIP and whether there are any indications that the market may be showing signs of improvement. Several committee members cited the volume of MAIP-rated risks as demonstration of the residual market rate need, noting the impact to profitability and willingness to write marginal risks voluntary. Members also recognize that some companies that specialize in writing substandard business have pulled back on their underwriting standards. One member also commented on the constraints associated with MAIP rate level that are placed on companies' voluntary rates and the resulting strain on the overall market.

Carriers commented that gradual rate relief experienced in the voluntary market and the MAIP rate increase for policies effective May 1 give reason to cautiously anticipate improvement. It was noted that recent data, although too immature to indicate a credible trend, shows a slight decrease in assignments. However, members strongly emphasized the importance of continued diligence in pursuing improved MAIP rate levels and consideration of alternatives to respond timely to indicated rate need.

Committee members concurred that quota share credits are not a contributing factor to the current marketplace conditions. Some members noted that historically, changes to credits have not correlated to trends in assignment volumes. Therefore, the Committee agreed to make no change to credits at this time. However, the Committee will continue to monitor market conditions and assignment volumes and will meet in early September to deliberate further.

TIMOTHY GALLIGAN  
Actuarial/Statistical Services Director

Boston, Massachusetts  
June 6, 2024



NATALIE A. HUBLEY  
PRESIDENT

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## RECORDS OF MEETING

### COMMERCIAL PROGRAM OVERSIGHT COMMITTEE – APRIL 25, 2024

#### Members Present

Mr. John Olivieri, Jr – Chair  
Ms. Nicole Martorana  
Ms. Sharon Murphy  
Mr. Henry Risman  
Ms. Meredith Woodcock

J.K. Olivieri Insurance Agency, Inc.  
FBInsure, LLC  
Acadia Insurance Company  
Risman Insurance Agency, Inc.  
Liberty Mutual Insurance Companies

Substituted for:  
N/A

Not in Attendance:  
Mr. Brian Hayes, Quincy Mutual Group

In light of the meeting time change announced on April 18, 2024, the Committee unanimously voted to waive the 10-day notice of meeting requirement.

#### 24.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Commercial Program Oversight Committee meeting of January 25, 2024. The Records have been distributed and are on file.

#### 24.04 Redistribution of Residual Market Books of Business

At its last meeting, the Committee discussed alternatives to minimizing market disruption associated the redistribution of residual market books of business to maintain equity among Servicing Carriers. To further assist the Committee in its discussion, Ms. Natalie Hubley reviewed an exhibit highlighting the two major ideas raised during the Committee's prior meeting: 1) potentially assigning more than one Servicing Carrier to networks and/or large agencies and 2) reviewing the expense allowance allocation procedures. Ms. Hubley explained that there are five major networks comprised of independently owned and operated agencies whereas the larger agencies are under single ownership. Therefore, focusing on networks may provide an opportunity for individual appointments to be made to each agency within a network. Alternatively, to minimize the potential for the brokering of business, each agency would be individually assigned to a Servicing Carrier. In this scenario however, Ms. Hubley recognized the difficulty in monitoring and overseeing a prohibition on brokering of residual market business. She advised that if the Committee supports this scenario, the Rules of Operation and Manual of Administrative Procedures would need review and update, but that this objective could be addressed independent of the RFP process.

Next, Ms. Hubley presented alternative expense allowance allocation procedures to address Servicing Carriers' previous comments highlighting revenue as the major factor in their decision to request a redistribution. The exhibit provided a premium distribution as of December 2023, and illustrated the current percent of premium approach, a flat expense allowance approach, and a hybrid approach employing a 50/50 combination of the percent of premium allocation and the flat allowance allocation. Ms. Hubley further explained that the flat allowance approach, reverses the Servicing Carrier perspective such that the oversubscribed carrier would request a redistribution. The Servicing Carrier asking for the redistribution under this approach will need to describe the market conditions that resulted in the over subscription. Ms. Hubley noted that the hybrid approach continues the current dynamics but mitigates the gap between the actual and expected expense allowance that occurs when the distribution becomes imbalanced. She requested that the Committee discuss whether the hybrid approach would enable consideration of an increased tolerance level to trigger a request for redistribution.

Mr. Henry Risman expressed concern that the current three percent tolerance is too low, opining that 12 of the largest agencies in the network account for nine percent of the total ceded premium. He also agreed that a prohibition on brokering within the networks should be considered but recognized the difficulty in monitoring and overseeing it. Mr. Barry Tegen supported the hybrid expense allocation approach, but commented that the three percent tolerance is suitable as it results in more than a \$400,000 impact to the expense allocation. . Mr. David Zawilinski suggested considering loss ratio incentives to improve the underwriting results.

After discussion, the Committee requested that Staff solicit more detailed feedback from the Servicing Carriers for further discussion at the next meeting. Ms. Hubley suggested that, if the Committee has not yet decided upon an expense allocation methodology, the RFP could indicate that CAR is considering different approaches and request that the respondents comment in their proposals.

#### **24.05 2027 Commercial Program Request for Proposal**

Ms. Wendy Browne noted that this is the time of year when CAR would typically develop a template for the 2023 Servicing Carrier Annual Reports. She noted that at the last meeting, the Committee was asked to consider waiving the 2023 Annual Reports as many of these topics would be addressed in the RFP. Recognizing the multiple activities in process, including RFP preparation, rate/rule/form changes, and statistical plan reporting considerations, Ms. Browne advised that staff supports the recommendation.

Ms. Lynne Rosenberg reviewed a redlined draft of the RFP containing suggested language changes addressing components of the commercial Servicing Carrier program highlighting the more substantive changes to the RFP recommended by staff. Mr. Tegen noted the emphasis added to Section 4.11 which requires the proposer to describe its implementation plan to ensure a smooth transition and minimal disruption to the producer and the insured. He pointed out that the added language refers to the producer training relating to the newer policy forms. Mr. Tegen noted his expectation that producer training would be a collaborative effort. Staff confirmed that it would work with MAIA to ensure that producers are provided with the materials developed by staff and reviewed by the Committee highlighting changes and the coverage impacts set forth in the newer forms.



Ms. Rosenberg advised that staff is in the process of reviewing the expense section of the RFP to consider prior committee comments and to address the one-time forms implementation. Committee members were encouraged to provide feedback prior to the next meeting so that staff could address their suggestions and complete the RFP draft.

RICHARD DALTON  
Residual Market Liaison

Boston, Massachusetts  
May 16, 2024



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110

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## RECORDS OF MEETING

### MARKET REVIEW COMMITTEE – APRIL 9, 2024

#### Members Present

Ms. Sheila Doherty – Chair	Doherty Insurance Agency, Inc.
Ms. Pamela Bodenshtab-Krynicky	P.L. Krynicky Insurance Agency
Ms. Sarah Clemens <sup>(1)</sup>	MAPFRE U.S.A. Corporation
Ms. Roberta Fitzpatrick	Arbella Insurance Group
Ms. Jean Houghton	Norfolk & Dedham Group
Ms. Mary McConnell	Safety Insurance Company
Mr. Kenneth Willis	Plymouth Rock Assurance Corporation
Mr. Mark Winiker	A-Affordable Insurance Agency, Inc.

Substituted for:

<sup>(1)</sup>Mr. Gary Sjolín

Not in Attendance:

Mr. Thomas Skelly, Jr., Deland Gibson Insurance Associates, Inc.

#### 18.01 Records of Previous Meeting

The Committee voted with five members in favor and two recused, Ms. Sarah Clemens and Ms. Roberta Fitzpatrick, to approve the Records of the Market Review Committee meeting of December 19, 2018. The Records have been distributed and are on file.

#### 24.04 Calianos Insurance Agency/Norfolk and Dedham Mutual Fire Insurance Company

Mr. Jason Calianos of the Calianos Insurance Agency requested a review contesting the practice undertaken by Norfolk & Dedham Mutual Fire Insurance Company (the Company) of demanding payment in full of the remaining outstanding premium balance upon issuance of a third cancellation notice. He asserts that the practice is in violation of Rule 28.C.2. of CAR's Rules of Operation. Ms. Jean Houghton of Norfolk & Dedham Group recused herself from participating in the discussion and vote.

In discussion of his request, Mr. Calianos claimed that in undertaking this practice, the Company had terminated the installment plan, stating that Rule 28.C.4. of CAR's Rules of Operation sets forth the remedy available to Assigned Risk Carriers (ARCs) when a policyholder fails to pay an installment premium by the applicable due date. That is, the Rule allows for the assessment of a late fee or cancellation fee of \$29.

Mr. Calianos cited the experience of one Calianos Insurance Agency insured as evidence of the alleged Rule violation. Specifically, he reviewed the cancellation notices issued to the policyholder, claiming that language contained in the second cancellation notice requiring payment in full if a third cancellation notice was issued is not in compliance with 211 CMR 97.04. Further, Mr. Calianos detailed associated communications with the Company as well as CAR staff findings with respect to 3 complaints filed regarding the matter. Mr. Calianos opined that because rates for MAIP policies are typically higher than policies written in the voluntary market, this practice places an added burden on the assigned risk and is therefore unfair and discriminatory. Finally, Mr. Calianos referred the Committee to CAR Rule 28, and indicated that the Rule did not provide for the cancellation of the payment plan, but rather provided for the assessment of a late payment fee.

Mr. Sean Moone representing the Norfolk & Dedham Mutual Fire Insurance Company explained that the Company's practice of requiring payment in full on the third cancellation notice had long been in place for both policies assigned through the MAIP and policies written voluntarily. He also pointed out that the cancellation notices contain the mandatory language prescribed by 211 CMR 97.04, plus additional language. Mr. Moone asserted that the policyholder had violated the billing plan by failing to adhere to the payment schedule. He confirmed that the company uses the CAR billing plan, and maintained that the billing plan set forth in the CAR Rule is silent as to actions that can be taken in instances where payments by the risk are not timely and therefore the nine equal monthly installments are no longer feasible.

The Committee asked questions of Mr. Moone regarding the Company's use of the MAIP billing plan, how the installment plan functions in cases of late payments, the language contained in the cancellation notices, the Company's use and administration of cancellation notices in the voluntary market, and its filing with the Division of Insurance relative to the billing plan and cancellation notices.

Significant discussion ensued focusing on the language in Rule 28.C. of CAR's Rules of Operation. Some members suggested that the Rule does not address remedies when late payments make equal monthly installments infeasible, resulting in ambiguity with respect to acceptable procedures in this case. Ms. Clemens noted that a strict read of the Rule as asserted by Mr. Calianos could mean that other company practices, that for example bill to equity, may be violative of the same provision. Messrs. Willis and Winiker, however, agreed that the remedy provided in the Rule calls only for the assessment of a late payment fee.

After discussion, the Committee voted with five in favor, two opposed, and one recused, that the Calianos Insurance Agency had not established that by requiring its policyholders issue payment in full of the remaining policy premium balance upon issuance of the third cancellation notice, Norfolk & Dedham Mutual Fire Insurance Company violates Rule 28.C.2. of CAR's Rules of Operation.

The Committee then voted with five in favor, two opposed and one recused, that the Calianos Insurance Agency had not established that Norfolk & Dedham Mutual Fire Insurance Company's practice of requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance of the third cancellation notice is unfair, unreasonable, or improper.

Further discussion ensued during which committee members commented that clarification of the Rule would benefit the residual market. Members noted the importance of consistent procedures for all Assigned Risk Carriers. One member questioned whether the Norfolk and Dedham practice concerns an installment plan issue or a cancellation issue. The Committee Chair, Ms. Sheila Doherty, requested that the issue be directed to the MAIP Steering Committee for review.

Ms. Rosenberg then advised that a subsequent review by the Governing Committee Review Panel may be requested pursuant to Rule 40 – Review and Appeal upon the submission of a Request for Review form.

RICHARD DALTON  
Residual Market Liaison

Boston, Massachusetts  
April 19, 2024



NATALIE A. HUBLEY  
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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## RECORDS OF MEETING

### GOVERNING COMMITTEE REVIEW PANEL – APRIL 30, 2024

#### Members Present

Mr. Thomas DePaulo – Chair  
Mr. Christopher Taylor  
Ms. Meredith Woodcock

Cabot Risk Strategies, LLC  
The Hanover Insurance Company  
Liberty Mutual Insurance Companies

Substituted for:  
N/A

Not in Attendance:  
N/A

#### 23.01 Records of Previous Meeting

The Committee unanimously voted to approve the Records of the Governing Committee Review Panel meeting of February 21, 2023. The Records have been distributed and are on file.

#### 24.04 Calianos Insurance Agency/Norfolk and Dedham Mutual Fire Insurance Company

Mr. Jason Calianos of the Calianos Insurance Agency appealed the decision of the Market Review Committee denying its request for relief from the actions of the Norfolk and Dedham Mutual Fire Insurance Company (the Company) demanding payment in full of the remaining policy premium balance upon issuance of a third cancellation notice. Mr. Calianos contends that the practice violates CAR Rule 28.C.2 of CAR's Rules of Operation.

In addressing the Committee, Mr. Calianos highlighted his contention that the Company violates CAR Rule 28.C.2. and that the practice is unfair, unreasonable, and improper. Mr. Calianos further argued that the added language to the cancellation notice indicating the intended termination of the payment plan violates 211 CMR 97.04. He referenced both 211 CMR 97.04 and MGL c.175, sec. 113A in supporting his view that a cancellation should not take effect if the policyholder pays the owed premium and fees on or before the cancellation date. Continuing, he stated that once the past due premium is paid, the payment plan should be reinstated with the remaining balance split equally over the remainder of the payment plan.

Referencing the transcript of the Market Review Committee meeting, Mr. Calianos stated the main issue discussed at the meeting was whether the payment plan established by Rule 28 must remain in effect after the issuance of cancellation notices and that the Committee found that Rule is silent on this issue. Mr. Calianos contended that Rule 28.C.2. is not silent in its intent for the company to establish and follow a payment plan through the life of the policy. He argued that by explicitly requiring a 25% down payment,

the Rule ensures that the company is always in an equity position and that the Rule does not limit the number of times the late payment fee can be assessed. He referenced the April 23, 2024 letter from the Office of the Attorney General to the Governing Committee Review Panel, in which Mr. Kaplan suggests that an interpretation that Rule 28 allows that a consumer be de-enrolled in the payment plan as a result of a late payment would mean that any late payment would result in de-enrollment.

Mr. Sean Moone representing Norfolk and Dedham stated that the Company has reviewed the letters sent from the Office of the Attorney General, one addressed to Jason Calianos and one addressed to the Governing Committee Review Panel. He explained that the Attorney General has been in contact with the Company inquiring about its practices and other general questions but, at no point, has the Attorney General sent or directed correspondence to the Company instructing it to cease this practice. He noted that while the Company respects the view of the Office of the Attorney General, the Company does not agree with the interpretation of MA General Law or the regulation.

Mr. Moone explained the Company's billing system and noted that this practice has been in place for a minimum of 30 years. The reason the 10-payment plan was put in place is to allow for the collection of the complete premium prior to renewal processing. He noted that the Company has not found its filing documentation for the long-standing variable language, but he advised that the Company has not changed its variable language on the cancellation notice in that time. He added that 211 CMR 97.04 mandates only minimum language for the cancellation notice as provided by Massachusetts General Law, but it does not restrict a company from adding variable language. Mr. Moone explained that the Company's billing practice ensures payment in full prior to the 90-day renewal process as intended by the 10-payment plan and ensures the Company's ability to appropriately underwrite the policy in that timeframe.

Mr. Moone asserted that the policyholder had violated the billing plan by failing to adhere to the payment schedule. Lastly, he concluded that this policy remains active and in force with Norfolk and Dedham and he asserted that the Calianos Agency has not been aggrieved by this action and that commissions are still being paid to the agency.

Mr. Thomas DePaulo opened the Committee's discussion by acknowledging the letters issued from the Attorney General's office and noted that, while the Committee will consider those letters and the arguments they assert, he reiterated that the Attorney General is not an authority that would be called upon to consider or decide this dispute. While both parties referenced Massachusetts General Law and CMR 211 in their arguments, which the Committee may consider in its discussion, the issue before the Committee is to determine whether or not there has been a violation of CAR Rule 28.C.2 and to determine whether or not the practice complained of by the Calianos Insurance Agency is unreasonable, unfair, or improper.

Discussion ensued in which the Committee requested clarification of the Company's billing systems. Mr. Moone explained that, with a cancellation notice, the Company bills for only the past due premium. Once the payment is received and the reinstatement notice is issued, the company bills for the next installment payment. He noted that the delay associated with three cancellation notices restricts the Company's ability to perform the renewal underwriting within the timeframes mandated by statute. Further, he explained that multiple late payments early in the policy period results in the Company billing two payment cycles behind with similar timing issues as if the late payments occur later in the policy period. Mr. Moone reiterated that the Company practice is in place for both voluntary and assigned policies. He noted that exceptions are sometimes granted upon request if there is a compelling reason, regardless of whether the policy is written voluntarily or assigned.

The Committee noted that both CAR Rule 28.C.2 and CMR 211 both fall silent on details concerning cancellations. Committee members questioned whether this is a widespread practice among companies. Ms. Browne advised that, absent confirmation of company practices, the Market Review Committee has asked that the issue be referred to the MAIP Steering Committee for review and potential

clarification of the Rule. Mr. Paul Wasgatt of Safeside Insurance Agency noted his agency's experience regarding complaints filed against companies he alleged violated the installment plan Rule and that in those instances he stated the complaints were resolved favorable with the company taking action to alter their prior practice.

Ms. Woodcock noted that the Rule requires a 25% downpayment and 9 equal installments, and that she favored a strict interpretation of the Rule. Mr. Taylor agreed and voiced concerns about the potential for similar practices to become more widespread and disruptive. After discussion, the Committee voted with two in favor and none opposed that the Calianos Agency has established that by requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance of a third cancellation notice, Norfolk and Dedham violates Rule 28.C. 2 of CAR's Rules of Operation.

The Committee then voted with two in favor and none opposed that the Calianos Agency has not established that the Norfolk & Dedham's practice of requiring that its policyholders issue payment in full of the remaining policy premium balance upon issuance of a third cancellation notice is unfair, unreasonable, or improper.

Ms. Lynne Rosenburg then advised that the decision of the Governing Committee Review Panel carries the weight of the full Governing Committee and may be appealed to the Division of Insurance pursuant to Rule 40 – Review and Appeal of CAR's Rules of Operation within 30 days of being officially notified of the Panel's decision.

LYNNE ROSENBURG  
Director of Operations and Residual Market Services

Boston, Massachusetts  
June 3, 2024