



NATALIE A. HUBLEY  
PRESIDENT

## COMMONWEALTH AUTOMOBILE REINSURERS

101 Arch Street, Suite 400 Boston, Massachusetts 02110

[www.commauto.com](http://www.commauto.com)

617-338-4000

### TRANSCRIPT OF GOVERNING COMMITTEE MEETING

A meeting of the Governing Committee was 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.**

Committee Members present –

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

Ms. Pamela Bodenshtab-Krynicky	P L Krynicky Insurance Agency
Ms. Sarah Clemens	MAPFRE U.S.A. Corporation
Mr. Kevin Costigan	GEICO
Mr. Thomas DePaulo	Cabot Risk Strategies, LLC
Mr. Thomas Harris	Quincy Mutual Group
Ms. Mary McConnell	Safety Insurance Company
Mr. Tiago Prado	BRZ Insurance
Ms. Meredith Woodcock	Liberty Mutual Insurance Companies

Substituted for:  
N/A

Not in Attendance:  
Mr. William Hughes, Arbella Insurance Group  
Ms. Ida Denard Jones, Denard Insurance Agency, Inc.  
Ms. Nicole Martorana, FBinsure  
Mr. Christopher Taylor, The Hanover Insurance Company

## PROCEEDINGS

*(Meeting began at 10:33 a.m.)*

Mr. Olivieri: Good morning, everyone. I'm calling to order the Governing Committee meeting of June 18<sup>th</sup>.

### 24.01 Transcript of Previous Meeting

Mr. Olivieri: The first agenda item is the Transcript of the Previous Meeting. I'm looking for a motion to approve those if anyone is so inclined.

Ms. Clemens: I'll make a motion to approve the minutes.

Mr. Olivieri: Do we have a second?

Mr. Harris: Second.

Mr. Olivieri: Any further discussion? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries.

### 24.04 President's Report

Mr. Olivieri: The next agenda item is the President's Report. Natalie.

Ms. Hubley: Good morning. Thank you. I do have quite a few items to bring to your attention today. I'll start with the various rate rule form filings under review at the Division of Insurance as well as some planned activity.

CAR's commercial rate filing, we had made a filing for a rate change for public and zone rated classes. We made that filing in January of this year with a proposed effective date of July 1<sup>st</sup>. At this time, we'll be moving the effective date to 10/1/24 as the rates have not yet been placed on file. Our last rate change was effective December 1, 2023. We will be reviewing rate indications later this summer and we'll consider the status of our current filing at that time as well.

Our commercial form filing with the replacement of all the commercial forms, our understanding is that the SRB has completed their review and the legal review is in process now. We have responded to some additional administrative questions that have come as part of that review as well.

We filed late last week a private passenger filing to adopt the increased limit factors from the AIB's most recent advisory rates placed on file. A

bulletin to that effect I think will be going out today. That has a proposed effective date of November 1, 2024 at this time.

We also have, as you know, filed the forms that go with the MAIP physical damage maximum limit of loss. We also understand that the SRB has completed its review and that this is in current legal review. We have had a question that was raised last week so we're going to be meeting hopefully sometime next week to discuss their question at that time.

As you know, there are two carriers today that have an approved waiver of the market share requirement of 5%, above which a carrier needs a waiver from the Commissioner for approval to enter into a LAD Agreement. Those carriers are Liberty Mutual and the Travelers affiliate that's in the quota share. The Division is now doing its annual review of those. They did ask us for some data. We've provided them the LAD limitation reports, current and prior from last year, as well as the quota share reports. The rule indicates that a decision would be made on those waivers at the end of this month. So, when we hear more, we'll let you know. If the Commissioner finds that they would no longer provide those waivers, the carriers would have six months to gear up to take on assignments as of January 1<sup>st</sup>. So, when we have more information, we will give that to you.

I've reported at the last few meetings on the status of CAR's office lease renewal. Synergy, which is our new landlord, has forwarded a counter to CAR's proposal. Staff and the Governing Committee Chair are in agreement that now is the appropriate time for a committee to come in and review the terms and make a recommendation to the Governing Committee. To that end, we've established an Ad Hoc Office Lease Review Committee. Representatives of Arbella, Safety and Plymouth Rock will sit on that committee given their familiarity with the Boston commercial real estate marketplace. Mr. Olivieri will also sit on that committee. We have a meeting scheduled for July 2<sup>nd</sup> for the committee to review the latest proposal. If that committee determines that it would be ready to make a recommendation to the Governing Committee, that will warrant a special meeting of this committee that we'll try to pull together in July. That would be a single-topic agenda held remotely so that hopefully we'll be able to include all of the members. At this time, the proposed effective date of the modification to our lease would be September 1<sup>st</sup>.

Ms. Clemens: Is it mandatory?

Ms. Hubley: Excuse me?

Ms. Clemens: Do we have to make an amendment or is it optional?

Ms. Hubley: If we're going to approve the terms, it would either be an amendment to our current lease or it would be a new lease. We're not 100% sure because we have a new landlord. If it weren't for the new landlord, it would probably be an amendment.

Finally, I want to advise the committee that CAR staff has been working for several months with Amica Insurance Company who has recently implemented a change, a complete rewrite of its systems and modernization. They have had some difficulties with respect to stat reporting in Massachusetts with the implementation. As a result, CAR has not received any data from them since its December 2023 submission which is about four months' worth of data at this time. The company initially reported to CAR that they would not be able to submit the missing data for at least two months and that they were, as yet, unsure of when their system would be updated to begin reporting to CAR.

Staff quickly responded in writing to the company that that position was unacceptable and that the company must stat report all of its missing statistical data. The letter documented for the company many statutory, regulatory and rule references requiring that that data be reported and identified potential penalties as well as those that have already begun to accrue.

The company did respond quickly. CAR staff and counsel met with Amica staff and their counsel last week. The company did strongly emphasize its commitment to ensuring that those statistics will be reported to CAR. They described the resources that they've assigned to this project including Amica staff, outside resources including PwC, PerrKnight, Grant Thornton and others. The company has yet though, not been able to confirm when they would begin reporting to CAR, but they are working diligently to review those systems and let us know. We did firmly reiterate to the company that they must report all data to CAR no later than December '24 submission. Staff also advised the company that it must submit interim summary statistics on a monthly basis to enable CAR staff to administer the quota share and assignment process.

Staff followed up to establish a monthly meeting schedule beginning in late June to discuss the status of their project. Staff will be meeting with Amica later this afternoon to discuss in more detail the reporting requirements for that interim summary data to ensure compliance by July 15<sup>th</sup> in that regard. To date, staff has included very conservative estimates in the quota share determination to ensure that Amica's lack of reporting does not negatively impact the other member companies. We will keep you apprised of the status of their efforts.

To let you know of some of the upcoming advisory committee activities that will be taking place this summer in preparation for your September meeting. The Commercial Auto Committee will continue its discussions of peer-to-peer sharing and other standard procedures. I think we're looking to set up a meeting in early August to continue those discussions. The Actuarial Committee will meet to finalize the recommendation related to quota share credits effective April 1, 2025. The Commercial Program Oversight Committee will continue discussions of the ERP distribution issues and Servicing Carrier compensation methodologies. The Loss Reserving Committee will meet to review June reserves and deficit projections. The MAIP Steering Committee will be meeting to discuss an item that will be brought to your attention later with the Market Review

Committee report. The Budget Committee will be meeting to set up a meeting to review CAR's fiscal year '25 Business Plan and budget recommendation.

If there are no questions, that would conclude my report.

Mr. Olivieri: Thank you, Nat. Any questions?

#### **24.05 Counsel's Report**

Mr. Olivieri: Counsel.

Mr. Hincks: Thank you, Mr. Chairman. Good morning, everybody. There are four items on today's counsel report. No action items.

The first item relates to the Calianos Insurance Agency's appeal to the Division. No further update on this longstanding matter. It remains fully briefed and argued. We await a decision from the Division of Insurance.

The second matter relates to Point Insurance. The Point II appeal as we have called it in these reports. That's the proceeding in which the Point Insurance Agency is challenging Arbella's termination. That remains pending at the Division. Following a hearing last November and some additional briefing that followed, it appears that the hearing office is now in a position to decide that appeal.

The third item relates to this committee's Rule 31 amendment. The Governing Committee's Rule 31 amendment is also pending at the Division. We await a decision on that as well.

The final item relates to the Calianos Insurance Agency's Market Review hearing adverse to Norfolk & Dedham and subsequent Governing Committee Review Panel appeal. As you'll hear in more detail shortly in both the committee reports of the Market Review Committee and the Governing Committee Review Panel, on April 9 of this year the Market Review Committee met to consider allegations by the Calianos Insurance Agency that certain conduct by Norfolk & Dedham violated CAR Rule 28.C.2. and to consider whether that same alleged conduct by Norfolk & Dedham was unfair, unreasonable or improper under CAR Rule 40.

After presentations by both Jason Calianos of the Calianos Agency and Sean Moone on behalf of Norfolk & Dedham followed by several questions by the Market Review Committee members and then the committee's substantive discussion of the matter, the Market Review Committee voted five in favor and two opposed with one recusal that the Calianos Agency had not established either a violation of CAR Rule 28 or that Norfolk & Dedham's alleged conduct was unfair, unreasonable or improper.

After the agency appealed the Market Review Committee's decisions to the GCRP, on April 30, 2024, the GCRP, the Governing Committee

Review Panel, convened to consider that appeal. After presentations again by Mr. Calianos and Mr. Moone followed by questions from the GCRP panelists and a wholesome discussion of the appeal by the panel, the GCRP voted two in favor and none opposed that the Calianos Agency had established that the complained-of conduct by Norfolk & Dedham violated Rule 28.C.2. of the CAR Rules of Operation. By the same vote of two in favor and none opposed, the GCRP then voted that the agency had not established that the complained-of conduct by Norfolk & Dedham was unfair, unreasonable or improper.

The 30-day appeal set forth in Rule 40.B. has now run without either party filing an appeal of the GCRP's decisions to the Division. Therefore, these rulings should be considered final. CAR is preparing a bulletin for the residual market advising of the GCRP's decision and that will be distributed shortly.

Unless there are any questions, that would conclude today's Counsel Report.

Mr. Olivieri: Questions for counsel? Thank you.

#### **24.06 Commercial Automobile Committee**

Mr. Olivieri: Next agenda item, Commercial Automobile Committee. Mr. DePaulo.

Mr. DePaulo: Thank you, Mr. Chairman. Good morning, everybody. I will be reporting today on the Commercial Auto Committee meeting of May 23<sup>rd</sup>. There were basically three items that we discussed, two of which will have considerations for the Governing Committee today.

The first agenda item was the eligibility of the peer-to-peer sharing program. This has been a standing agenda item for the past several meetings. The committee continued its discussion regarding the eligibility for cession of risks engaged in peer-to-peer vehicle sharing by hearing a report on the results of a survey that CAR staff had distributed to the industry. In general, most respondents to the survey do not provide any coverage under any circumstances to the peer-to-peer sharing. There are six companies in the private passenger marketplace that do provide coverage for the insured's personal auto, but they exclude coverage when the vehicle is engaged in any sharing. There were two carriers in the commercial marketplace that have endorsements for vehicle sharing as a commercial risk. At the request of the committee, staff will reach out to the carriers providing coverage to see if their names can be released. The agents were very interested to know who the carriers were. The survey was sent out on the condition that they would not be disclosed. So, we're looking into that now. The committee was also informed that legislative bills relating to the peer-to-peer vehicle sharing program do not appear to be moving forward and will need to be reintroduced at a later date.

Members indicated a preference to better understand the coverage that is provided in the voluntary market to ensure that the needs of the motoring

public are being met. So, staff was requested to solicit the master policy forms that provide coverage to the vehicle sharing platforms. This will be reviewed at a later meeting.

The next agenda, which there will be consideration, is the consistency in determining classification. The committee continued its discussion on issues relating to reported inconsistencies among Servicing Carriers in determining classification. Draft amendments to Chapter X of the Manual of Administrative Procedures were presented to the committee addressing the recommendation to assign the Bus NOC classification when supporting documentation is not available at policy inception. The standard was updated to reflect this recommendation as well as addressing reclassification and rerating under certain circumstances when the documentation does become available at a later date.

Considerable discussion ensued relative to the significant difference in pricing between Bus NOC, school bus or social service operations, especially as that impacts new risks in their bid to obtain contracts. Due to new operations not always securing the contracts they are seeking, the committee determined that Bus NOC is the appropriate classification and reiterated the opportunity for reclassification once the contract has been obtained. Furthermore, if inconsistencies in the underwriting process continue to occur once the change to the standard has been put in place, the committee indicated its willingness to consider additional repercussions for non-compliance. Accordingly, 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 the Administrative Procedures. This is an action item for your consideration. The proposed changes can be found in the Commercial Automobile Committee records, which is Exhibit #5, Pages 4 through 7, in your agenda packet.

Mr. Olivieri: We have an action item, so we'll need a motion if anyone is so inclined.

Mr. Harris: So moved.

Ms. Clemens: Second.

Mr. Olivieri: Any further discussion? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries unanimously. Thom.

Mr. DePaulo: Just to finish up this section, the committee also considered changes to the definition of Bus NOC to include vehicles that are owned by daycare centers. After some discussion relative to the social service classification including transportation of children to daycare centers and consideration of adult daycare operations, the committee determined that additional discussion was warranted. We will take this up at future meetings.

Finally, the committee had requested staff to review other states' residual markets to help assist with defining the term "operates" that is used in Rule 72.C.2. that uses the highest rated territory of operation through which or in which the public automobile operates. The committee had previously discussed whether "operates" applies only when the vehicle is transporting clients to define the highest rated territory or whether it applies when there are no clients in the vehicle on the way to or from the garaging town. It was noted that there was a wide range in how the other residual markets handle the determination of territory and no real consensus. After some discussion, there was consensus amongst the committee to adopt similar language to the New Jersey market in which operations are defined as operating from when passengers are picked up and dropped off. Accordingly, the committee directed staff to update the rules and procedures for consideration at the next meeting.

The last agenda item, which is another item for consideration, is the on-hook towing coverage. The committee was provided with updated proposed manual rule language to allow for on-hook towing coverage but address concerns relative to misuse of the endorsement. Specifically, language was added that describes that risks engaged in auto hauling or trucking operations are not eligible for on-hook coverage. The committee voted unanimously to recommend to the Governing Committee the adoption of the On-Hook Coverage Endorsement CA 04 52 with an earlier effective date – which will be in conjunction with our next rating filing – including the proposed rule change to the Massachusetts Commercial Automobile Rating Manual. This is an action item for your consideration. The proposed changes can be found in the Commercial Automobile Committee records, Exhibit #5, Page 8 of 8 in your packet.

- Mr. Olivieri: Do we a motion on the action item?
- Mr. Harris: Question.
- Mr. Olivieri: Go right ahead.
- Mr. Harris: Everything makes sense. The rating algorithm is funky. Could somebody explain how we get to this 90%/5%?
- Mr. Olivieri: I'm sure somebody can but it's definitely not going to be me. I'm going to defer to Nat to defer to who can explain that.
- Ms. Hubley: I'd defer to Wendy or Tim.
- Ms. Browne: I think it's 95% of one coverage and 5% of the other. I think it's the comp that it's 95% of in case, you know, you have an accident while your client's vehicle is on the tow truck.
- Mr. Harris: But it's 90 and 5. It doesn't add up to 100.
- Ms. Browne: No. It's 90% of the full collision and 5% of the comp collision. Right, it's of those two separate parts. It's not supposed to add up to 100.



Mr. Harris: It makes sense to somebody.

Ms. Browne: It is also what the AIB has in their voluntary manual.

Mr. Harris: Thank you. I'd like to make the motion.

Ms. Browne: Thank you.

Mr. Olivieri: We have a motion. Do we have a second?

Ms. Woodcock: I'll second it.

Mr. Olivieri: Any further discussion? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries. Does that conclude your report, sir?

Mr. DePaulo: That concludes my report, Mr. Chairman.

Mr. Olivieri: Thank you very much.

#### **24.07 Actuarial Committee**

Mr. Olivieri: Next agenda item, Actuarial Committee. Sarah.

Ms. Clemens: This is a report on the Actuarial Committee that met on 5/28/24. There are no action items.

The main agenda topic was related to the proposed quota share credit offers for April 1, 2025 and forward. CAR provided valuable information regarding the residual market. These materials included the volumes and aggregate as well as by agency, retention and experience. Discussion surrounded the market influencers including the aggregate rate level of the industry and MAIP. Due to the various changes in the environment including the MAIP 5/1/2024 rate filing as well as the overall profitability of the voluntary market, the committee agreed to not change the credits at this time. The committee agreed that the credits are not a large contributing factor to the current marketplace and not proposing any changes. With that being said, the committee has agreed to monitor and reconvene in September. Any questions?

Mr. Olivieri: Questions? Thank you.

#### **24.08 Commercial Program Oversight Committee**

Mr. Olivieri: Next agenda item, Commercial Program Oversight Committee, which I will be reporting on.

We've had two meetings since our last Governing Committee meeting. I'm going to report mostly on the May 29<sup>th</sup> meeting only because that has much of the detail as to what we're talking about. There is one action item.

The first area I'm going to review is redistribution of the residual market. I'm going to read some excerpts from the meeting minutes just to make sure I don't miss anything.

At its meeting in April, the committee requested staff to solicit feedback from Servicing Carriers regarding the alternatives for the allocation of expense allowances as well as the current tolerance level for the redistribution of the residual market books of business. Ms. Browne provided the committee with an overview of the responses stating that three of the four Servicing Carriers believe the current percent-of-premium methodology is the preferred option. Ms. Browne did note that one Servicing Carrier preferred the hybrid option as it best tempers the differences in company expenses that can arise from agency mergers and acquisitions while still providing a portion of the premium reimbursement based on the premium volume.

Ms. Browne also noted that one Servicing Carrier suggested the committee consider the concept of assigning new business on a rotational basis for larger agencies and networks and/or for all ceded business. The Servicing Carrier believed this approach could potentially eliminate the need for future redistributions as well as address other concerns such as brokering. She noted that only two carriers commented on the current tolerance level with no consensus of the best option.

A little further along in the meeting, after I had asked for CAR staff's opinion, Ms. Hubley opined that the hybrid model has merit in that it addresses Servicing Carrier comments that premium volume correlates with costs incurred to service residual market business, but it also recognizes that some costs are fixed. She suggested that by reducing the variance in distribution of expense dollars, the hybrid model presents an opportunity for the committee to consider increasing the established threshold to consider redistribution. She added that Servicing Carriers have identified revenue as the leading factor in determining whether to request a redistribution of the ceded book of business.

After discussion, the committee expressed interest in further consideration of the advantages and disadvantages of the hybrid model approach. Accordingly, the committee directed staff to incorporate a comment in the RFP for the proposers to understand that the committee is considering alternative approaches to the expense allocation methodology with the decision to be determined at a future meeting. We haven't quite resolved what the future is as far as that issue goes, but we did want to make sure we incorporated it into the RFP. So, that is a fluid process at this point.

The committee, reflecting on the market disruption associated with a redistribution, requested additional information relative to the impacted agencies. The committee also requested information reflecting the guidelines used to realign the books of business as well as processes

defined for the book transfers. The committee agreed to continue discussing this subject at its next meeting. Before I get on to the next item, any questions in regard to that? Sarah?

Ms. Clemens: So, carriers will not know what the compensation is going to look like ahead of the bidding process?

Mr. Olivieri: I'm going to defer to Nat to answer that.

Ms. Hubley: I think that the committee will be meeting prior to – the RFP is going to be distributed around August 1<sup>st</sup> and there will be a pre-response conference. I think it's August 15<sup>th</sup>. At that time, we'll provide a status report to the proposers and let them know where those discussions are. If they've concluded, you'll know. If they haven't concluded, it may be possible that we'll ask the carriers to further comment about the advantages and disadvantages in their proposals and then the selection committee will make a final decision.

Ms. Clemens: I just want to make sure that the carriers that may or may not bid are going in eyes wide open. I think it is creating a little bit of ambiguity in the middle of a pretty complex RFP including all the form updates and things like that. So, I would encourage that we try to get more concrete guidance than we don't know what the conversation might look like.

Mr. Olivieri: That committee's goal is to have pretty concrete guidance at the point they're going to make their submissions. We just wanted to make sure it was in there at this point. I'm pretty sure anyone who is going to bid knows what's going on. We'll update you as we go.

Ms. Hubley: Also, the RFP was updated to be very specific in that two options are being considered. It's not as wide open as we have no idea what the compensation method is going to be.

Ms. Clemens: I just think it would be good clarity for the industry to have.

Ms. Hubley: Absolutely.

Mr. Olivieri: Point taken. Any other questions regarding that topic?

The other item that we discussed had to do with the Request for Proposal. That is going to have an action item with it. Ms. Rosenberg reviewed updates made to the RFP which have been included in the Highlight of Changes to the Request for Proposal document. She pointed out the added program requirement for Servicing Carriers to have representation on CAR advisory committees. Additionally, Ms. Rosenberg noted changes to the RFP relative to projection costs and evaluation factors. CAR is recommending Appendix B be modified to eliminate references to separate yearly price quotations and instead input a single annual price quotation for the appointment term. Finally, the Evaluation Factors section has been updated to simplify the evaluation process and enable more flexibility for the selection committee to distinguish aspects of individual proposals.

After discussion and commentary, the committee unanimously voted to recommend to the Governing Committee to authorize the distribution of the RFP as amended. That is an action item if anyone is so inclined to move it.

Mr. DePaulo: So moved.

Mr. Olivieri: Do we have a second?

Ms. Clemens: Second.

Mr. Olivieri: Any further discussion or questions regarding that? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries unanimously. That concludes my report.

#### **24.12 Loss Reserving Committee**

Mr. Olivieri: Next item, Loss Reserving Committee. Mr. Galligan.

Mr. Galligan: Thank you, Mr. Chairman. Good morning, everybody. I'm going to report on the June 5<sup>th</sup> Loss Reserving Committee meeting. The summary of that meeting was included in your agenda today.

First, the committee discussed their ongoing data reporting concerns and large losses reported during the current quarter. There were eight new large losses greater than \$1 million this quarter. Five of those losses carried a \$1 million Combined Single Limit coverage and three carried a \$5 million CSL. In total, for all years, there are 126 claims over \$1 million with current total incurred losses of approximately \$216 million. That is an increase of around \$6.2 million since the prior quarter.

There were 13 new claims reported using the Large Loss Notification Form during the current quarter. Three of these claims carried a \$5 million CSL with initial loss estimates of \$500,000 or less for all three. Nine claims carried a \$1 million CSL and one was at \$500,000. There were several significant losses in those reports that had no reported statistics that were evaluated by the committee and included in their estimates when they selected their ultimate losses. Those losses included a \$5 million PDL claim related to a pollution loss that was also included in the prior quarter. This is a pretty significant claim that involved a trailer with over 10,000 gallons of fuel. That one was put back in. There were also several other BI claims with estimated losses totaling approximately \$3.6 million. Finally, there were two accident year 2017 policies that had bodily injury reserves that were incorrectly reported over their policy limit. The committee took that extra amount out when they were considering their reserves.

Next, the committee set commercial loss reserves and ultimate deficits using data that's reported through March 2024.

The committee estimated a policy year 2021 surplus of \$24.1 million with an ultimate loss ratio of 67%. This estimate results in a \$734,000 improvement on the prior quarter's surplus.

The committee estimated a policy year 2022 deficit of \$23.7 million with an ultimate loss ratio of 89.1%. This was a \$2.8 million increase of the prior quarter's projected deficit of \$20.9 million. The increased deficit results are due in part to the large loss activity including two new large losses reported in the current quarter as well as four of the large losses that came from the prenotification process.

For 2023, a deficit of \$6 million was estimated with an ultimate loss ratio of 79% resulting in a \$1.3 million deterioration from the prior quarter.

Ultimate loss ratios and deficit projections for all policy years are attached to the Executive Summary. They are on pages 13 to 16.

Finally, for our next meeting, the Loss Reserving Committee is scheduled to meet September 4<sup>th</sup> and we'll evaluate data reported through June 2024.

That concludes my report. I'd be happy to take any questions.

Mr. Olivieri:

Any questions for Tim? Thanks, Tim.

#### **24.14 MAIP Steering Committee**

Mr. Olivieri:

Next agenda item, MAIP Steering Committee. Barry.

Mr. Tagen:

Good morning, Mr. Chairman, members of the committee. I will be reporting on the discussions that took place at the May 30, 2024 MAIP Steering Committee meeting. Note that there is one action item for your consideration.

The committee first continued discussion regarding the MAIP Physical Damage Maximum Loss Payable. The committee was informed that amendments to Rule 27, which is the Coverage of the Rules of Operation, were deemed approved by the Division of Insurance and that the amendments to the Private Passenger Residual Market Manual Rules and Rates, as well as the proposed endorsement, were filed with the Division and are awaiting approval. The committee was provided with an overview of the revised implementation procedures incorporating changes since the last meeting which included: 1) A generic Policy Holder Notice that will be attached to all MAIP policies renewing during the 12-month renewal cycle following the implementation date 2) A separate Notice to the Lienholder, including more detailed information identifying specific vehicles impacted by the change 3) The insurance binder that will reflect "Not to exceed \$175,000" in the amount field and 4) An updated Coverage Selections Page that will include the language "Coverage Maximum of

\$175,000” rather than actuarial cash value. Note that because the Coverage Selection Page is considered part of the policy documentation, the change to the page will need to be hard-coded and placed on file with the Division as an approved MAIP form.

The committee unanimously voted to approve the procedures packet, including a minor revision to the Coverage Selection page for consistency.

The next agenda item was Rule 30 – Assigned Risk Company Procedures. The committee reviewed the proposed amended language to Rule 30 – Assigned Risk Company Requirements of the Rules of Operation, Section C.1.c. – Procedures for Voluntary Writing of Risks from the MAIP relative to the notification to the producer of record for a reduction in the notification timeframe to no less than 60 days and to allow for notification by electronic means.

The committee unanimously voted to recommend to the Governing Committee approval of the proposed amendments to Rule 30 – Assigned Risk Company Requirements. The proposed changes can be found on Exhibit #2, page 5, which is the last page of that exhibit, of the Additional Information notice. This is an action item for your consideration.

Mr. Olivieri: Does anyone want to make a motion on the action item?

Mr. Harris: So moved.

Mr. Olivieri: Do we have a second?

Mr. Prado: Second.

Mr. Olivieri: Any further discussion? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries.

Mr. Tagen: Thank you. Lastly the committee was informed of the Governing Committee’s directive to review the current status and size of the private passenger residual market and evaluate areas in which rules and procedures could be strengthened to address volume concerns. The committee was updated about similar discussions at the Actuarial Committee meeting and provided with a number of exhibits to better understand trends in the market such as assignment volume data, MAIP retention rates and various rules and procedures that currently address the topic of placement declination in the MAIP.

Committee members offered a number of comments and opinions including 1) most producers prefer to place business in the voluntary market 2) current residual market growth is reflective of a cyclical nature of the marketplace and improvements should be anticipated as rates improve 3) the low residual market volumes during Covid were unprecedented and expectations with respect to volumes should be taken

into account 4) written declinations may be difficult to obtain in light of the fact that most of the application process occurs online nowadays and 5) the ability to obtain declinations can be impacted by the size of the agency and how many, if any, voluntary markets are available to the agents.

After considerable discussion, the committee did not favor any changes to the current process for voluntary declinations. The committee also did not favor a change to the rules confirming a MAIP risk's right to remain in the residual market for the full three-year assignment term. The committee did support further review of agency assignment data and we'll do that at the next meeting.

That would conclude my report. I would be happy to take any questions.

Mr. Olivieri: Does anyone have any questions for Barry?

Mr. Prado: Do you believe that there's a probability over the course of the next 12 to 24 months of re-rating and then the volume or the appetite for MAIP decreases organically?

Mr. Tagen: I believe we are seeing a – I believe we're past the high point in the graph and that was in March based on the number of assignments from our data. I'm just going to throw out some numbers. In March, I believe Monday through Friday, the average number of assignments made to the pool in total was 415. In April, it was 388 a day. In May it was 300. In June, we're seeing even fewer. The April to May decrease was 23% on average per business day. The rate change of 12.2% and the decrease in May, I don't think it's necessarily a coincidence. There could be some other factors that I'm not aware of. Carriers may be opening up a little bit and writing some risks that they hadn't been for a while. I'm not privy to that information.

Mr. Prado: I had a meeting with Progressive about two weeks ago. They are looking to cut rates as well as increase their appetite. We've seen that shift internally.

Mr. Tagen: Again, I'm not privy to that information. Where it's going to go, I don't know, but we're definitely seeing a decrease.

Mr. Olivieri: Any other questions for Barry? Thank you, sir.

#### **24.15 Market Review Committee**

Mr. Olivieri: Market Review. Ms. Browne.

Ms. Browne: Good morning. I'm going to be reporting on the actions taken by the Market Review Committee at their April 9<sup>th</sup> meeting. I think you already heard a slight preview under Counsel's Report, but I'll just give you a little bit more detail.

Mr. Jason Calianos of the Calianos Insurance Agency requested a review contesting the practice undertaken by Norfolk & Dedham Mutual Fire Insurance Company of demanding payment in full of the remaining outstanding premium balance upon the issuance of a third cancellation notice. He asserted that the practice is in violation of Rule 28.C.2. of CAR Rules of Operation.

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.2. of CAR's Rules of Operation sets forth the remedy available to Assigned Risk Carriers 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 and that the language contained in the second cancellation notice requiring payment in full if a third cancellation notice is issued is not in compliance with 211 CMR 97.04. Mr. Calianos also 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.

Mr. Sean Moone representing Norfolk & Dedham explained that the company's practice of requiring payment in full on the third cancellation notice has 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 has 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.

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 for this case. It was also noted that a strict read of the rule as asserted by Mr. Calianos could mean that other company practices, such as bill to equity, may be in violation of the same provision. Other members, however, felt that the remedy provided in the rule calls only for the assessment of late payment fees.

After discussion, the committee voted with five in favor, two opposed, and one recusal, 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 that Norfolk & Dedham was in violation of Rule 28.C.2.

The committee then voted with five in favor, two opposed and one recusal that the Calianos Insurance Agency had also 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 was unfair, unreasonable or improper.

Further discussion ensued during which the 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 & Dedham practice concerns an installment plan issue or a cancellation issue. Accordingly, the committee Chair requested that the issue be directed to the MAIP Steering Committee for review.

Unless anybody has any questions, that would conclude my report.

Mr. Olivieri: Any questions for Wendy? Thank you.

#### **24.16 Governing Committee Review Panel**

Mr. Olivieri: Next agenda item, Governing Committee Review Panel. Mr. DePaulo.

Mr. DePaulo: Thank you, Mr. Chairman, again. I will be reporting on the actions taken by the Governing Committee Review Panel at its April 30<sup>th</sup> meeting which was the appeal of the Market Review Committee's action at their April 9<sup>th</sup> meeting.

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 Norfolk & Dedham in demanding payment in full for the remaining outstanding premium balance upon issuance of a third cancellation notice. Mr. Calianos contended that the practice violated Rule 28.C.2. of CAR's Rules of Operation.

In addressing the committee at the meeting, Mr. Calianos highlighted his contention that Norfolk & Dedham had violated CAR Rule 28.C.2. and that the practice is unfair, unreasonable and improper. Mr. Calianos further went on to argue that the added language to the cancellation notice indicating the intended termination of the payment plan also violates 211 CMR 97.04. He referenced both 211 CMR 97.04 and Mass. General Law c. 175, Section 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 remaining number of payments on the payment plan.

Mr. Calianos stated the main issue discussed at the Market Review Committee meeting on April 9<sup>th</sup> was whether the payment plan established by Rule 28 must remain in effect after the issuance of cancellation notices and that the committee found the 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 on the policy, 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 also referenced a letter from the Office of the Attorney General in which it was suggested that an interpretation of Rule 28 that allows that a consumer can be de-enrolled or unenrolled in the payment plan as a result of the late payment would mean that any late payment could result in the de-enrollment or unenrollment to the payment plan.

Mr. Sean Moone representing Norfolk & Dedham explained that the company's practice has been in place for a minimum of 30 years and that the reason the 10-payment plan was put in place is to allow for the collection of complete premium prior to the 90-day renewal processing cycle. He informed the committee that the Attorney General has been in contact with Norfolk & Dedham inquiring about its practices but at no point has it instructed the company to cease this practice. He further noted that 211 CMR 97.04 mandates only minimum language for the cancellation notice but does not restrict a company from adding variable language. Finally, Mr. Moone asserted that the policyholder had violated the billing plan by failing to adhere to the payment schedule, but that the policy remains active and in force and that the Calianos Agency has not been aggrieved by this action as commissions are still being paid to the agency.

Discussion ensued in which the committee requested clarification of the company's billing systems that result in a lack of equity even if multiple late payments occur early in the policy period. The committee noted that CAR Rule 28.C.2. and 211 CMR both fall silent on details concerning cancellations. Two members favored a strict interpretation of the rule which requires a 25% down payment and nine equal installments. Concerns about the potential for similar practices to become more widespread were also voiced at the meeting.

After discussion, the committee voted with two in favor and none opposed that the Calianos Insurance Agency had 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 did violate Rule 28.C.2. of CAR's Rules of Operation.

The committee then further voted with two in favor and none opposed 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.

Unless anyone has any questions, that would conclude my report.

Mr. Oliveri:

Questions?

Ms. Clemens:

I have a question. In terms of this strict interpretation that this was decided upon, there are various carriers that might have rules that violate that. So,

is there a tolerance for adherence? There are probably system calculations that N&D and maybe other carriers have in their systems. Ahead of the MAIP Steering Committee coming out with a revised, clear rule about what happens when you enter into a late payment situation, what should the action by the carriers be?

Mr. Olivieri: I'm going to defer to Nat and counsel on that.

Mr. Torres: You heard in the report that a bulletin is going out to the industry. But the practice, at least the specific practice that was undertaken by Norfolk & Dedham, has been determined by the Governing Committee Review Panel, which has the full authority of the Governing Committee, to violate the CAR rule. So, any practice that is consistent with that would have to be changed.

Ms. Clemens: So, any time it's late, that nine payments have to stay the same. You cannot spread it. There was a comment that says the remainder should be split over the remaining payment period which is accurate because now it will not be nine equal monthly payments.

Ms. Hubley: There was no specific language from the discussion that there would be a change to the rule. So, the practice that was complained of in the appeal has been found to be violative of the rule. So, carriers to the extent that they also use that practice they must cease and desist. The rule will be referred to the MAIP Steering Committee for further discussion.

Ms. Clemens: There's a lot of carriers that might have different system items especially if it's just a practice that aligns with their voluntary-type billing system and things like that. There are a lot of carriers that get assignments so it's probably a sizeable effort for people to review. So, I'd just make sure the bulletin is clear on that.

Mr. Olivieri: As Nat had pointed out, this is something the MAIP Steering Committee is going to be working towards, providing very specific guidance, and making any changes they need to. I'm not trying to oversimplify it, but if it's obvious that maybe you're outside of what came out of this situation. It's a big question. We've had these conversations. If it's obvious maybe tighten it up until we can come back and make changes to give guidance. In the meantime, if it's not obvious, just continue on what you're doing but be cognizant of this issue if you're a carrier.

Ms. Clemens: Okay, thank you.

Mr. Olivieri: Any additional questions?

### **Other Business**

Mr. Olivieri: Any other business to come before the Governing Committee this morning? We have no reason to go into Executive Session. I will entertain a motion to adjourn.

Mr. Harris: So moved.

Mr. Olivieri: Do we have a second?

Mr. Prado: Second.

Mr. Olivieri: Any further discussion? All in favor?

All Committee Members: Aye.

Mr. Olivieri: Opposed? Motion carries unanimously. We are adjourned. Thank you, everybody.

*(Meeting ended at 11:29 a.m.)*

NATALIE HUBLEY  
President

Note: This Transcript has not been approved. It will be considered for approval at the next meeting of the Governing Committee.

Attachment

Boston, Massachusetts  
July 9, 2024

The above proceedings have been transcribed in accordance with CAR's guidelines for producing quality transcripts, which provide for the elimination of insignificant material that does not alter the substance of the Committee's discussions, such as sidebar comments, the use of verbal fillers (i.e., uhm's and ah's), and commentary (i.e., "laughter" and "coughing").

**ATTACHMENT LISTING**

Docket #GC24.02, Exhibit #3

Attendance Listing

Company / Agency

**PLEASE PRINT**

[illegible]

**JUNE 18, 2024**

Company / Agency

**PLEASE PRINT**

[illegible]