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ADDITIONAL INFORMATION

**TO MEMBERS OF THE COMMERCIAL AUTOMOBILE RESIDUAL MARKET
STANDARDS SUBCOMMITTEE**

FOR THE MEETING OF:

Tuesday, January 23, 2018 at 1:00 p.m.

CRMS

18.04 Commercial Residual Market Issues

Attached for further discussion is the list of commercial residual market issues identified by the Subcommittee at its last meeting. The Subcommittee will review the list to begin developing solutions where appropriate and to further refine and/or prioritize the issues for future discussions. (Docket #CRMS18.04, Exhibit #1)

CRMS

18.05 Review of CAR Rules and Manuals

Staff has reviewed CAR's Commercial Automobile Insurance Manual in an effort to identify those areas where discretion is afforded to Servicing Carriers in underwriting residual market risks. Attached is a list of five Rule references where the Subcommittee may consider whether further clarification would benefit the residual market. (Docket #CRMS18.05, Exhibit #1)

WENDY BROWNE
Vice President – Business Operations

Attachments

Boston, Massachusetts
January 19, 2018

Commonwealth Automobile Reinsurers

Commercial Automobile Residual Market Standards Subcommittee

Commercial Residual Market Issues

At its previous meeting, the Subcommittee directed CAR Staff to compile a list of issues identified in its deliberations for continued discussion. Staff has prioritized the topics as reflected in the order of presentation. The Subcommittee should be prepared to confirm the priorities and formulate recommendations where appropriate.

1. Standards for Determining and Substantiating Principal Place of Business

At the December, 2017 meeting, discussion took place relative to the development of standard guidelines to assist Servicing Carriers in determining or substantiating a risk's Principal Place of Business in order to confirm eligibility for placement in the MA commercial residual market. Subcommittee members noted that Servicing Carrier efforts to employ the "nerve center" test, upheld by the United States Supreme Court have been effective in confirming eligibility for multi-state trucking and bus operations. Accordingly, to address difficulties in substantiating Principal Place of Business arising from technological advances in today's marketplace, the Subcommittee should consider the attached amendments to Rule 2 - Definitions of CAR's Rules of Operation.

If Rule 2 amendments are adopted, Staff would further recommend publication of a Bulletin providing further guidance to industry participants in determining a corporation's Principal Place of Business. The Bulletin would advise of the "nerve center" test, which refers to the corporation's center of direction, control, and coordination as the place where the majority of its executive and administrative functions are performed. As such, operations taking place in the corporation's "nerve center" would include, but not be limited to:

- Computer/monitoring systems that track the location of the vehicles
- Scheduling systems for vehicle operations and corresponding routes
- Systems for responding to vehicles requiring roadside or emergency assistance
- Payroll systems
- Depending upon the business operations, commensurate hours of operations
- Telephone systems to handle customer service, driver assistance, maintenance and repair, vendor, employee communications
- Treasury management systems for disbursing and collecting funds
- Administrative activities to support business operations

The Bulletin would further clarify that a mail drop box, a bare office with a computer, or a location where executives only occasionally visit, does not qualify as Principal Place of Business for the purpose of determining eligibility for cession to the MA residual market.

2. Radius of Operations for Truck and Bus Classifications

A. Determination of Radius Class

The Subcommittee noted that the radius of operation for truck and bus classes are not consistent. Pursuant to Rules 52 and 72 of CAR's Commercial Automobile Manual,

radius for trucks is determined using the street address of principal garaging, and for buses using the motor vehicle's registration. The Subcommittee should discuss whether a change to either manual rule should be recommended.

Subcommittee members also noted that the use of garaging and/or registration location to determine radius class has enabled some risks to qualify for zone rating, even if the vehicles rarely, if ever, travel to that location. The Subcommittee questioned whether an amendment to use business operation would be appropriate. However, Staff is in the process of a thorough analysis of zone rates, including primary class factors, in conjunction with its next rate filing. Staff recommends postponing discussion of this topic until completion of its efforts.

B. Documentation Standards

The Subcommittee may establish guidance for Servicing Carriers to use in reviewing documentation provided by the risk to substantiate its radius of operations, e.g. registration and travel logs indicating where vehicles are being driven.

3. Rating Territory for Non-Zone Rated Public Classes

The Subcommittee noted that Rule 72.C.2. sets forth the determination of rating territory for public automobile classes. For non-zone rated risks, the rating territory is defined as the highest rated territory through or in which the public vehicle operates. However, the language does not specifically address the determination of territory for those risks that travel outside of Massachusetts. Questions have also been raised concerning the clarification of the 80/20 rule.

The Subcommittee should discuss whether an amendment to the determination of rating territory is recommended.

4. Non-Fleet Private Passenger Types

The Subcommittee has discussed difficulties in confirming eligibility for risks classified as non-fleet private passenger types. At future meetings, the Subcommittee will further discuss potential enhancements including, but not limited to:

- Improvement of Underwriting Standards to encourage consistency among Servicing Carriers
- Validation of Business Entity
- Sharing of Information
- Collection of business owner and operator information
 - The Subcommittee should consider whether each Servicing Carrier will develop its own form or whether CAR should develop a common form for all the carriers to use.

5. Covered Automobiles

In order to protect against duplicate exposure within the commercial residual market, the Subcommittee should discuss whether limitations of certain ISO symbols is appropriate for the commercial residual market.

6. Miscellaneous Risk Classification Issues

At a future meeting, the Subcommittee will discuss whether the language in the rating manual should be clarified to ensure consistency among Servicing Carriers in classification of risks. Examples raised to date include:

- Buses – Social Service vs. School vs. NOC
- Garage – Dealer Risk with some Repair vs. Repair Risk with some Dealer

7. Cancelled Risks being placed on other policies to avoid owed premium

The Subcommittee should further discuss this issue to determine whether strengthened controls are feasible and beneficial to the residual market.

8. Producer Requirements

The Subcommittee should review the provisions of Rule 14 – Exclusive Representative Producer Requirements of CAR's Rules of Operations in order to consider amendments. In addition, the Subcommittee has suggested potential enhancements to CAR's Producer Management System, including:

- The development of a producer profile that shows the distribution of its book by classification
- Reports that highlight those producers with significant volumes of any classifications or those with significant increases in any of the classifications.
- Using these reports, CAR could direct a Servicing Carrier to perform an audit of a producer's book of business to determine if any questionable practices were occurring.

9. Information Sharing

The Subcommittee has discussed opportunities to share information that may not be proprietary in nature or in conflict with statute and/or regulation, but that would be beneficial to the administration of the program (such as previous underwriting actions by a Servicing Carrier relative to cancellation for ineligibility, etc.). The Subcommittee will compile a list of data elements and collection methods.

10. Program Oversight and Auditing

After preparing and implementing recommendations resulting from discussion of the preceding topics, the Subcommittee will review current audit procedures and consider whether enhancements are required to ensure consistency among Servicing Carriers in managing the residual market. Furthermore, the Subcommittee will discuss the role of CAR's committees in evaluating Servicing Carrier performance.

CAR | **Rules of Operation**
Rule 2 | **Definitions**
Revision Date | **2014.10.17**
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INSURER means any corporation, association, partnership or individual licensed to write Motor Vehicle Insurance in Massachusetts.

MANUAL OF ADMINISTRATIVE PROCEDURES (MAP) means the Manual of Administrative Procedures of CAR and does not include the Assigned Risk Company Procedures Manual or the Assigned Risk Producer Procedures Manual.

MEMBER means any Insurer which is licensed to write Motor Vehicle Insurance liability policies or bonds in Massachusetts and which is not an Inactive Member. Groups of companies under the same ownership and management will be treated as a single Member. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single Member.

MOTOR VEHICLE INSURANCE means direct insurance against injury or damage, including the legal liability therefore, arising out of the ownership, operation, maintenance or use of motor vehicles, including but not limited to bodily injury liability insurance, personal injury protection insurance, property damage liability insurance, physical damage insurance, medical payments insurance, uninsured/underinsured motorists insurance and towing and labor insurance.

PERSON means a natural person, firm, co-partnership, association, corporation, government or agency thereof.

PLAN OF OPERATION or PLAN means the Plan of Operation of CAR prepared pursuant to G.L. c. 175, §113H.

PRINCIPAL PLACE OF BUSINESS, as it applies to the definition of an Eligible Risk, is defined as the chief or usual place of business. It is the “nerve center”~~head office; the corporation’s center of direction, control, and coordination;~~ the place where the principal officers generally transact business and the place to which reports are made and from which orders emanate. It is ~~also~~ the place where the majority of executive and administrative~~corporate~~ functions are performed. ~~It is where executive offices are located and corporate decisions are made.~~

The burden of proof with regard to the location of the Principal Place of Business, consistent with the definition as stated above, lies with the applicant who seeks to qualify as an Eligible Risk.

Commonwealth Automobile Reinsurers
Commercial Automobile Residual Market Standards Subcommittee
Commercial Automobile Insurance Manual Review
Discretionary Language

The Subcommittee should review the following Rules and discuss whether the discretionary language should be strengthened or clarified in order to encourage consistency of Servicing Carrier underwriting policies and procedures.

1. Rule 4.A.1. and 2. – Standard Procedures

Rule 4 sets forth certain administrative procedures with respect to renewal, transfer of insurer, and cancellation transactions. The current Rule allows Servicing Carrier discretion with respect to renewal applications and questionnaires. Specifically, Rule 4 states that the “Servicing Carrier may elect to include a renewal application or questionnaire with the renewal policy.” Additionally, the Rule provides that “the application or questionnaire may be accompanied by another letter indicating that coverage will be continued or renewed only upon receipt of the completed form and payment of premium based on the latest classification information.”

Under a separate agenda item, the Subcommittee will consider whether it may be appropriate to require a supplemental application to collect owner/operator names and license numbers in order to gather data that may aid carriers in assessing risk eligibility. Upon conclusion of those discussions, the Subcommittee should discuss whether amendments to Rule 4 should be proposed to reflect any new requirements or to recommend standard procedures where appropriate.

2. Rule 25 – Combination of Interest

Rule 25 provides that “more than one interest may be named on a policy and rated as a single risk if one interest owns more than 50% of another.”

The Subcommittee should discuss whether this language requires clarification in order to ensure consistent procedures in the residual market.

3. Rule 55 – Premium Development Options for Truckers

Rule 55 sets forth the option for Servicing Carriers to develop premium for trucking risks on a specified car basis or on a gross receipts basis. Further, the Rule indicates that the use of gross receipts rating procedure should result in a premium that does not deviate from a specified car premium determination.

For policy years 2016 and 2017, no data has been statistically reported for ceded policies written on a gross receipts basis. The Subcommittee should discuss whether an amendment to this Rule would benefit the residual market.

4. Rule 75 – Gross Receipts or Mileage Basis

Rule 75 sets forth the option for Servicing Carriers to develop premium for a public transportation risk on a gross receipts or mileage basis. Further the Rule indicates that the use of gross receipts and mileage based rating procedure should result in a premium that does not deviate from a specified car premium determination.

For policy years 2016 and 2017, no data has been statistically reported for ceded policies written on a gross receipts or mileage basis. The Subcommittee should discuss whether an amendment to this Rule would benefit the residual market.

5. Rule 126 – Composite Rating

Rule 126 sets forth the option for Servicing Carriers to employ a composite rating procedure to develop premium for special types and operations classifications under certain minimum premium conditions. Further, the Rule indicates that the use of this rating procedure should result in an estimated premium charge that does not deviate from a specified car premium determination.

For policy year 2016, seven ceded policies were statistically reported as composite rated basis and for policy year 2017, two ceded policies were statistical reported as composite rated basis. The Subcommittee should discuss whether an amendment to this Rule would benefit the residual market.