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RECORDS OF MEETING

COMMERCIAL AUTOMOBILE RESIDUAL MARKET STANDARDS SUBCOMMITTEE – MAY 30, 2018

Members Present

Mr. John Olivieri, Jr. – Chair	J.K. Olivieri Insurance Agency, Inc.
Ms. Sheila Doherty	Doherty Insurance Agency, Inc.
Ms. Mayre Hammond	Arbella Insurance Group
Mr. John Kelly ⁽¹⁾	MAPFRE U.S.A. Corporation
Mr. Brian Lam	Safety Insurance Company
Mr. Christopher Miskavitch ⁽²⁾	Deland, Gibson Insurance Associates, Inc.
Mr. Barry Tagen	Pilgrim Insurance Company
Mr. Sean Thompson ⁽³⁾	The Hanover Insurance Company

Substituted for:

⁽¹⁾Ms. Sarah Clemens
⁽²⁾Mr. Thomas Skelly, Jr.
⁽³⁾Mr. Coleman Johnson

Not in Attendance:

N/A

18.01 Records of Meeting

The Subcommittee unanimously voted to approve the Records of the Commercial Automobile Residual Market Standards Subcommittee meeting of May 9, 2018. The Records have been distributed and are on file.

18.04 Commercial Residual Market Issues

Mr. John Metcalfe reported that the list of issues impacting the commercial residual market has been updated to reflect the current status of the Subcommittee's deliberations. He stated that the Subcommittee should review the updated standards and certification form to be used by Servicing Carriers and Exclusive Representative Producers for validating a non-fleet private passenger type risk's eligibility in the commercial market, including the certification form and endorsement to be used.

Additionally, the Subcommittee should consider amendments to Rule 14 – Exclusive Representative Producer Requirements relative to updated producer requirements, review updates to the Manual of Administrative Procedures relative to the requirement for Servicing Carriers to report ineligible risk information to an online information sharing database, and review modifications to CAR rules and manuals to limit residual market coverage to policies written on the Business Auto Coverage Form to only those vehicles written on a specified car basis.

18.08 Standards for Validating Non-Fleet Private Passenger Type Risks

Mr. Metcalfe stated that in accordance with the Subcommittee's discussions at its May 9, 2018 meeting, staff has updated the Servicing Carrier and Exclusive Representative Producer standards, non-fleet private passenger types certification form and operator exclusion endorsement to be used to validate information provided by a risk in order to determine whether a non-fleet private passenger type risk is eligible for placement in the commercial automobile residual market. Additionally, he noted that proposed language has also been added as Rule 31 – Operator Exclusion Form of the Commercial Automobile Insurance Manual.

The Subcommittee reviewed the modifications made to the standards, certification form, the operator exclusion endorsement and the rating manual rule and agreed that further language should be added to both the Servicing Carrier and Exclusive Representative Producer sections of the standards to emphasize that risks not meeting the defined eligibility criteria will not be placed in the commercial residual market.

On a unanimous vote, the Subcommittee approved the Servicing Carrier and Exclusive Representative Producer standards for determining and validating non-fleet private passenger type risk eligibility with the additional modifications as discussed by the Subcommittee, the Non-Fleet Private Passenger Type Certification Form, the Operator Exclusion Form and the modifications to Rule 31 – Operator Exclusion Form of the Commercial Automobile Insurance Manual and recommended their adoption by the Commercial Automobile Committee.

18.09 Producer Requirements

Ms. Marian Adgate stated that based upon discussion at the Subcommittee's May 9, 2018 meeting, staff has modified Rule 14 – Exclusive Representative Producer Requirements to reflect an increased work experience requirement for producers that must be satisfied prior to action being taken on an ERP's application for appointment. She noted that the Subcommittee agreed that the ERP must satisfy that it has 12 months of work experience, increased from 6 months, with a licensed producer or Member, with the applicant's efforts primarily devoted to the commercial insurance market. Additionally, she indicated that Rule 14 was also modified to include the requirement that the producer must submit completed certification form(s) as applicable, with the application for insurance.

Mr. John Kelly stated that while he agreed with the rule modifications proposed, he was concerned that the language didn't go far enough to assure that producers appointed to the commercial residual market have the appropriate experience and knowledge to write the major commercial class types and he questioned how a producer's work experience is validated by CAR staff.

After substantial discussion, on a unanimous vote the Subcommittee approved the proposed modifications to Rule 14 for recommendation to the Commercial Automobile Committee. However, the Subcommittee agreed that further discussion should take place at the Commercial Automobile Committee meeting or at future Subcommittee meetings to address and document the validation process used to confirm that producers have the commercial experience required to write commercial business and provide guidance to the customers they serve.

18.10 Information Sharing

At the last Subcommittee meeting, the Subcommittee approved a proposal for the development of an online information sharing system to be used by Servicing Carriers to access information on risks that have been declined, non-renewed or cancelled as a result of being ineligible for coverage in the Massachusetts commercial residual market. The Subcommittee agreed that staff should move forward on developing the system and accordingly, Ms. Adgate noted that to document the requirement for Servicing

Carriers to report such actions, modifications have been made to Chapter III – Servicing Carrier Requirements of the Manual of Administrative Procedures. The Subcommittee discussed the language presented and it was agreed that the wording be modified to indicate that the Servicing Carrier will also be required to report to the database the reasons(s) for ineligibility.

On a unanimous vote, the Subcommittee approved the proposed modifications to Chapter III, with the addition of suggested language as discussed, and recommended the approved modifications to the Commercial Automobile Committee for its approval.

18.11 Covered Automobiles

Ms. Natalie Hubley noted that at its last meeting, the Subcommittee indicated that it supported in concept the recommendation that coverage written in the commercial residual market should be restricted to those written on a specified auto basis. Further, the Subcommittee's review of discretionary manual language indicated that consistency and standardization among Servicing Carriers has been significantly impacted by providing the carriers with options for underwriting policies and applying procedures. Ms. Hubley also noted that although only a few policies are written on a composite rating, gross receipts or mileage basis for determining policy premium, the commercial pool had recently been exposed to a stacking of coverage on a policy written on a composite rate basis. She indicated that CAR staff has performed a thorough review of the commercial auto manual and although these rating options are necessary on garage and auto dealers policies, staff has suggested that policies written on the business auto policy should be restricted to those written on a specified auto basis and designated with ISO symbol codes of 7, 8 and 9 only.

Discussion took place on whether a policy rated on a composite rate basis should be allowed in the residual market, with several members citing the efficiency of using this procedure for rating a large fleet risk. However, noting that composite rate structure is not consistent among Servicing Carriers, that few policies are rated in that manner, and that the scheduling of individual vehicles has the benefit of identifying the specific vehicles covered and providing a more accurate policy premium, it was the Subcommittee's consensus that in order to assure consistency among Servicing Carriers and protect the residual market from duplicate exposure, risks rated on a composite rate basis should not be cedeable to CAR.

In order to document that residual market coverage be limited to policies written on the Business Auto Coverage Form to only those vehicles specifically described in the policy declarations, or those written with non-owned or hired coverage either on a stand-alone policy or in conjunction with a Massachusetts motor vehicle insurance policy, Ms. Adgate reviewed with the Subcommittee proposed updates to the impacted rules and manual chapters. She further noted that the rules and manuals have been amended to reflect that policies written on the Business Auto Coverage Form on a gross receipts, mileage or composite rated basis would no longer be cedeable to CAR. Ms. Adgate presented to the Subcommittee staff's suggested modifications to the Rules of Operation, Commercial Automobile Insurance Manual and Manual of Administrative Procedures.

The Subcommittee approved, with six members in favor and one opposed, modifications to Rule 6 of the Rules of Operation, Rules 3, 55, 75 and 126 of the Commercial Automobile Insurance Manual and Chapter V of the Manual of Administrative Procedures as presented and recommended their adoption by the Commercial Automobile Committee.

MARIAN ADGATE
Corporate Documentation Specialist

Boston, Massachusetts
June 8, 2018

ATTACHMENT LISTING

Docket #CRMS18.02, Exhibit #6

Attendance Listing

Docket #CRMS18.08, Exhibit #4

Non-Fleet Private Passenger Types Standards, Forms
and Manual Rule - Updated

Docket #CRMS18.10, Exhibit #4

Modifications to Manual of Administrative Procedures
Chapter III - Updated

Servicing Carrier Standards for Non-Fleet Private Passenger Type Classifications

Standards for the Review of Non-Fleet Private Passenger Type Commercial Automobile Risks: In determining whether a non-fleet private passenger type risk is eligible for placement in the commercial automobile residual market, Servicing Carriers are required to validate the information provided by the risk and writing producer. If the application asserts/suggests a business entity/operation the Servicing Carrier must validate that a commercial automobile business entity/operation exists. Risks not meeting the defined eligibility criteria will not be placed in the commercial auto residual market.

Servicing Carriers will require and receive a signed Non-Fleet Private Passenger Type Certification Form attesting to the information submitted on the application for insurance pursuant to the insured's business entity. The certification must be signed and dated by the insured and writing producer. The certification form may be used for renewal business at the discretion of the Servicing Carrier.

Underwriting Tools and Opportunities: Servicing Carriers should take advantage of, but not limited to, the following options in determining risk eligibility relative to determining the business entity:

1. Proof of Business Entity:
 - a. Use the Secretary of Commonwealth's Corporations Division website to determine:
 - If the risk and/or the risk's Federal Employer Identification Number (FEIN) is registered with the Corporations Division
 - Date of Origination, Current Status
 - The identity of the risk's officers, directors, partners and/or managers – ownership and address information
 - Who signed the organizational documents for the risk
 - b. Use an Internet search engine to determine if the risk has a website for its stated business entity/operation.
 - c. Use an Internet mapping site to assess business address, public and street presence.
 - d. Use the RMV systems to verify whether the risk's officers, directors, partners and/or managers have a Massachusetts address/operator's license and to determine if the risk previously was insured with a Massachusetts carrier. Verify that the vehicle registration(s) is in the name of the business entity/operation. Confirm all operator information listed on the application and certification document.
 - e. Assess whether there was prior insurance coverage provided for the business entity/operation and the history of that coverage (i.e. cancellation/non-renewal reason, etc.)
 - f. Obtain one or more of the following:
 - 1) Contract for services with a customer relative to the listed business entity/operation
 - 2) Tax filing information for the business (Schedule C if filing an individual return)
 - 3) Workers Compensation Insurance Policy
 - 4) General Liability Insurance Policy
 - 5) If prior insurance coverage, copy of declarations page
 - 6) Copies of leases and utility bills
 - g. Request SIU investigation when necessary to determine if risk is a business entity

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 the eligibility of the business entity/operation.

Exclusive Representative Producer Standards for Non-Fleet Private Passenger Type Classifications

Standards for the Review of Non Fleet Private Passenger Type Commercial Automobile Risks: In determining whether a non-fleet private passenger type risk is eligible for placement in the commercial automobile residual market, Servicing Carriers are required to validate the information provided by the risk and writing producer. If the application asserts/suggests a business entity/operation the Servicing Carrier must validate that a commercial automobile business entity/operation exists. Risks not meeting the defined eligibility criteria will not be placed in the commercial auto residual market.

Exclusive Representative Producers (ERPs) will be responsible for:

- 1. Obtaining a completed and signed Non-Fleet Private Passenger Type (NF-PPT) Certification Form for each NF-PPT risk submitted to their Servicing Carrier for placement in the commercial auto residual market.**
- 2. Listing all permissive operators of the vehicle(s) on the application for insurance and note any operator listed on the application with a valid license from a country or territory approved by the Massachusetts RMV, on the Non Fleet Private Passenger Certification Form.**
- 3. Obtaining a completed Driver Exclusion Form if the owner(s) does not have a valid driver's license and is/are not listed on the application as an operator(s).**
- 4. Reiterating to the insured that the Certification Form requires the insured's cooperation in notifying the insuring carrier of any change to information presented in the application, including information pertinent to the ownership and permissive operators of the vehicle(s), during the policy period.**

The ERP will also be responsible for assisting in the verification and confirmation of information regarding the risk's eligibility for commercial automobile residual market coverage including, but not limited to:

1. Proof of Business Entity:
 - a. Corporate Documentation - Use of the Secretary of Commonwealth's Corporations Division website to obtain:
 - Validation of the risk and/or the risk's Federal Employer Identification Number (FEIN) being registered with the Corporations Division and includes, the Date of Origination, Current Status, the identity of the risk's officers, directors, partners and/or managers – ownership and address information and who signed the organizational documents for the risk
 - b. Use of an Internet search engine may be used to reflect that the risk has a website for its stated business entity/operation.
 - c. Vehicle usage: Use the RMV systems to determine if the registration of the vehicle(s) is consistent with the name of the business entity/operation.
 - d. Operators of the Vehicle(s): List all operators and associated license information. If the owner is not listed as an operator, please explain. Note: a Drivers Exclusion Form will be required to be signed by the owner(s), if not listed.
 - e. Provide prior insurance coverage for the business entity/operation and the history of that coverage (i.e. cancellation/non-renewal reason, etc.)
2. The ERP/risk will be required to provide **at least one**, or at the request of the Servicing Carrier, more of the following documentation with the application:
 - a. Contract for services with a customer relative to the listed business entity/operation
 - b. Tax filing information for the business (Schedule C if filing an individual return)
 - c. Workers Compensation Insurance Policy
 - d. General Liability Insurance Policy
 - e. If prior insurance coverage, copy of declarations page
 - f. Copies of leases and utility bills

NON FLEET PRIVATE PASSENGER TYPE (NF-PPT) CERTIFICATION FORM

*****TO BE CERTIFIED BY ALL NF-PPT APPLICANTS PRIOR TO PLACEMENT IN THE
COMMERCIAL AUTOMOBILE INSURANCE RESIDUAL MARKET (CAR)*****

NAME OF BUSINESS: _____

DESCRIPTION OF BUSINESS: _____

Submit a copy of ***at least one*** or, at the request of the Servicing Carrier, more of the following documentation with the application:

1. Contract for services with a customer relative to the listed business entity/operation
2. Tax filing information for the business (Schedule C if filing an individual return)
3. Workers Compensation Insurance Policy
4. General Liability Insurance Policy
5. If prior insurance coverage, copy of declarations page
6. Copies of leases and utility bills

If documents are not available, please explain: _____

VEHICLE USAGE:

How are vehicles used in your business? _____

VEHICLE OPERATORS:

Number of employees: Full Time: _____ Part Time: _____

ALL EMPLOYEES, FAMILY MEMBERS AND ANY OTHERS WHO HAVE PERMISSION TO DRIVE ONE OR MORE OF THE VEHICLES MUST BE LISTED ON, OR INCLUDED WITH THE APPLICATION FOR INSURANCE (A LICENSE NUMBER, STATE OR COUNTRY OF ISSUANCE MUST BE INCLUDED FOR EACH).

FOR ANY OPERATOR LISTED ON THE APPLICATION WITH A VALID LICENSE FROM A COUNTRY OR TERRITORY APPROVED BY THE MASSACHUSETTS RMV, THE FOLLOWING MUST ALSO BE COMPLETED:

1.) OPERATOR NAME: _____

LICENSE # _____ STATE/COUNTRY: _____

DATE OF ARRIVAL IN THE U.S. _____

2.) OPERATOR NAME: _____

LICENSE # _____ STATE/COUNTRY: _____

DATE OF ARRIVAL IN THE U.S. _____

For additional operators that meet this criteria, attach information listing the above information

NON FLEET PRIVATE PASSENGER TYPE (NF-PPT) CERTIFICATION FORM

OWNER(S) NOT LISTED AS AN OPERATOR(S) OR NOT LICENSED

If the owner(s) of the business does not have a valid driver's license and is/are not listed on the application as an operator(s), a Driver Exclusion Form must be signed and submitted with the application. In addition, the/those owner(s) will sign the following:

I have voluntarily chosen not to list myself as a driver on the application. I understand and agree that if an unlisted owner is involved in a claim, there may be no coverage under my policy because of the Material Misrepresentation provision of the policy. Owner(s) Signature(s): _____

SIGNED CERTIFICATION OF BUSINESS ENTITY AND VEHICLE USAGE:

The application I submitted herewith represents that my vehicles are used to further my business objectives. I understand and agree that the Company is entitled to examine books and records as they relate to the premium for this policy at any time during the policy period. This may include verification of actual business use of the vehicles. I certify that I have listed on the application all my employees, family members and others who have permission to drive one or more of the vehicles listed in my application. I understand that I am required to cooperate with and notify the insuring carrier of any change to information presented in the application, including information pertinent to the ownership and permissive operators of the vehicle(s), during the policy period. ***I understand that, if found responsible for fraud or material misrepresentation in the application or any extension or renewal of the policy, the insurance company can cancel or rescind all or part of the insurance and/or deny coverage of a claim pursuant to the provisions of the policy and applicable law.*** By signing below, I hereby certify that all information provided herein and all other information submitted with the company's application is true and accurate.

Signature of Owner/Applicant's Authorized Representative: _____

Printed Name of Owner/Applicant's Authorized Representative: _____

Title: _____

Date: _____

Witness to the Signator and Signing above:

Signature of Producer: _____

Printed Name of Producer: _____

Agency Name: _____

Date: _____

MA Fraud Warning: "Any person who knowingly and with the intent to defraud any insurance company or another person files an application for insurance or statement of claim containing any material false information, or conceals for the purpose of misleading information concerning any fact material thereto, may be committing a fraudulent insurance act, which may be a crime and may subject the person to criminal and civil penalties."

---Documentation to be submitted to the insuring Servicing Carrier, copy to be retained by Producer---

MASSACHUSETTS ENDORSEMENT – CR XX XX XX XX

Operator Exclusion Form

It is agreed by the insurance company, the policyholder and the person named below (the Excluded Operator), that the Excluded Operator will not operate the vehicle(s) described below, or any replacement thereof, under any circumstances whatsoever.

Named Insured: _____

Excluded Operator: _____

Vehicles (Complete Section A **OR** Section B):

A. _____ (Check if applicable) Any and All Vehicles Listed or Covered on the policy during the policy term

OR

B. Specific Vehicle(s)

Vehicle Description: _____

Vehicle Description: _____

Vehicle Description: _____

Vehicle Description: _____

The policyholder and Excluded Operator understand and agree that the insurance company will not pay under the optional insurance parts of the policy for any injury or damage arising out of the operation or use of the vehicle(s) described above, by the Excluded Operator.

The policyholder and Excluded Operator understand and agree that this Operator Exclusion Form will continue in full force and effect in any subsequent renewal or replacement of the policy until the policyholder and the insurance company withdraw this form in writing.

Date

Policyholder/Authorized Representative Signature

Date

Excluded Operator's Signature

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- B. For zone rated risks, refer to Zone Rating Tables.
- C. For garage risks, refer to Rule 89 – Medical Payments Insurance in Section VI – Garage Dealers of this Manual.

No charge shall be made for service or utility trailers.

RULE 31. OPERATOR EXCLUSION FORM RESERVED FOR FUTURE USE

The Servicing Carrier will attach the Operator Exclusion Form, CR XX XX XX XX, to the policy in regard to any owner of the business who is not listed as an operator on the application and does not have a valid license, or in other circumstances as requested by the insured. A separate endorsement should be completed for each excluded operator.

RULE 32. PARTNERSHIP AS THE NAMED INSURED – NON-OWNERSHIP LIABILITY (CLASS CODE 70000)

- A. When Non-Ownership Liability is afforded, the Business Auto Coverage Form provides coverage to a partnership for the use of automobiles owned by individual partners which are used in the business of the partnership.
- B. Multiply the private passenger type rates by .10 for each active or inactive partner for the territory in which the partnership is located. Apply this rating base regardless of the type of automobile being used.

RULE 33. RENTAL REIMBURSEMENT (COVERAGE CODE 083)

- A. Do not write Rental Reimbursement Coverage for less than 30 days or for a limit of less than \$15 per vehicle per day.
- B. Refer to the Rate Section for premium development.

RULE 34. INDIVIDUAL AS THE NAMED INSURED

Endorse a Business Auto Coverage Form covering an individually owned private passenger automobile with the appropriate individual named insured endorsement.

- A. Drive Other Car Coverage is provided at no additional charge if the policy covers:
 - 1. A private passenger automobile not used for public transportation or rented to others without a driver.

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A. Servicing Carrier Responsibilities

In order to successfully fulfill its residual market obligations, a Servicing Carrier is responsible for meeting the requirements of CAR's Rules of Operation, specifically performing the duties identified in Rule 13 – Servicing Carrier Requirements including those relative to rates and policy issuance, data reporting, Exclusive Representative Producers (ERPs), compliance with established claims performance standards and sharing in CAR's administrative expenses and underwriting results. Additional Servicing Carrier responsibilities are described in Sections B. of this Chapter. Section C. provides requirements relative to the termination of an ERP contract including the process for reviewing such termination and associated appeal procedures. Section D. of this Chapter provides information relative to the premium and expense reimbursement procedure a Servicing Carrier must follow when an ERP default occurs.

B. Additional Servicing Carrier Responsibilities

1. Review of Agency Groups and Affiliations

On an annual basis, a Servicing Carrier must provide CAR with information relative to each ERP's affiliation status for commercial Motor Vehicle Insurance. Any contractual relationship or membership in a producer cluster or network that the ERP may have or whether the ERP has a direct or indirect material and continuing proprietary or management interest in another agency or brokerage firm having an ERP appointment to another Servicing Carrier must be identified. Additionally, any new agency affiliations or changes in affiliated agency relationships must be identified. CAR will also perform a review of producer group websites in an attempt to confirm group memberships. Refer to Rule 13.B.5. of CAR's Rules of Operation for additional information.

This information will assist CAR in its evaluation and assessment of the need to redistribute commercial ceded written premium among Servicing Carriers. For additional information relative to redistribution, refer to Chapter II.B. – Servicing Carrier Appointment of this Manual.

2. Commission Payment Requirements

A Servicing Carrier must pay commission to an ERP on ceded commercial business as specified in Rule 18 – Commissions of CAR's Rules of Operation.

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3. Reporting Requirements for an Ineligible Risk

A Servicing Carrier that declines, non-renews or cancels a risk it determines to be ineligible for coverage in the commercial residual market must report such action, and the reason(s) therefore, to CAR's Ineligible Risk Database within two business days. Data elements to be reported include Business Name, Owner License Number, Federal Employer Identification Number (FEIN), USDOT Number, Policy Identification Number, Class Type, as well as other data elements that identify the risk and are beneficial to the administration of the Commercial Servicing Carrier Program. CAR will maintain the database for access by Servicing Carriers to enable more efficient underwriting. However, a Servicing Carrier is required to perform its own investigation to independently determine eligibility of a risk.

Note that if the declination, non-renewal or cancellation is rescinded, the Servicing Carrier must update the Ineligible Risk Database to notify CAR of the reinstatement.

43. Additional Commercial Automobile and Taxi and Limousine Program Requirements

In addition to complying with the provisions of CAR's Rules of Operation, a Servicing Carrier is responsible for adhering to the following requirements:

- a. Administrative and Account Management Services
 - 1) A management level account executive with knowledge of the Program must be assigned and will be responsible for assuring the requirements of the Program, responding to CAR inquiries and meeting with CAR staff and committee representatives.
 - 2) Each Servicing Carrier must provide a direct bill program. Servicing Carriers must cooperate with their assigned producers to assure that policyholders are made aware of their option to utilize an installment plan.
 - a) For commercial automobile business, the Servicing Carrier must use an installment payment plan that has been filed with and approved by the Division of Insurance. The plan must include the application of an installment finance charge plan based on an annual percentage rate and no more than a 30% first or deposit payment on or before the policy effective date. The plan must also include that no less than seven monthly payments thereafter must be offered to the insured that chooses to pay in installments.