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To the Operation Efficiencies Working Group (via email)

Re: Product Filing Examiners Handbook Chapter 2 - The Filing Process

We have previously submitted comments regarding the first section of this chapter - "A Brief History of Rate and Form Regulation." This letter offers comments and suggestions regarding the remaining material in the May 13 draft of Chapter 2.

Starting at the top of page 11, we suggest a title insert indicating a clear break between the history section and the discussion of the filing process. Perhaps "The Filing Process"? I think this section would be enhanced by adding a lot of additional kinds of general information about filings as described in the next several paragraphs, before going into any discussion of the product development process that appears in the current draft under "The Filer."

For level-setting purposes, it might be useful to define "filing" in general terms right at the beginning. The chapter might also discuss that filings are the end of various product development activities and occur as essentially the last step before implementation.

It might be useful at this point to discuss the basic elements of an insurance program: the contract (including the main policy form, coverage page, declarations, endorsement or riders), manuals of rates and rating rules, underwriting rules, etc.

I suggest that the next discussion should mention that filings can be made by several kinds of entities. Filings are made by, for, or on behalf of, risk-bearing entities (i.e., insurers). They can be made individually by each insurer or insurer-group, either by its own staff or by a contracted third-party filer. Advisory organizations are entities authorized under each jurisdiction's laws to make filings on behalf of their members and subscribers, as authorized by each of those members and subscribers (see below for further information regarding advisory organization filings and insurer responses to those filings).

Then, I suggest a discussion of the categories of products that are filed, including forms, underwriting rules (some states), rating rules, rates, and advertising (some lines and jurisdictions). This should be followed by a brief discussion that different requirements, filing mechanics and procedures may be applicable to each product category within a jurisdiction, and refer the reader to Chapter 5 for more detail.

The next discussion should probably be that filings are made when a company develops and implements a brand-new program, but most filings are modifications to existing programs, and thus will not contain all the elements of an insurance program. The origins of such filings can be diverse, including responses to newly enacted legislation, regulations or court cases, market research, a desire to simplify or enhance an existing program, etc. Such revisions can range from short, simple, straightforward submission, to very complex documents. Some filings will be an insurer's response to material filed by its advisory organization (see below).

Rate filings are generally made by insurers on a regular basis in response to updated insurance experience (reference to Chapter Three). Rate revisions may also be filed in response to legislation, regulation, court cases or other changes in the underlying program. Rate filings may be precipitated by a loss cost filing made by the insurer's advisory organization.

Loss cost filings are a subset of rate filings and are made only by advisory organizations. These entities do not file final rates or effective dates for their loss costs. Rather, they file advisory prospective loss costs, which are defined as all the loss-related

elements of a rate. To complete the rate filing, an insurer must -- at a minimum -- file a profit and expense loading to its adoption of an advisory organization loss cost filing.

I've been told by many states that advisory organization filings trigger a large part of a state's filing workload. Therefore, I recommend that some time be spent on describing these unique kinds of filings along the following lines.

Insurer filings in response to advisory organization filings:

1 - Adoptions of advisory organization rule and form filings: While member and subscriber insurers are entitled to have their advisory organization make filings on their behalf, some advisory organization customers may not give their advisory organization binding authority (i.e., they may not grant filing authorization to the advisory organization). These insurers may file to adopt the advisory organization material at another time, either with or without modifications, or not adopt a specific revision at all.

2- Customers of advisory organizations that have given the advisory organization "file on behalf" authority may choose at any time to make a simple filing notifying the regulator of their non-adoption. Similarly, they may make simple filings that merely change the effective date of the material that has been filed on their behalf by their advisory organization.

3- Insurers that wish to use their advisory organization's loss costs as the basis of their rates file a "Reference Filing Adoption" that specifies a provision (usually a multiplier) that comprises the insurer's expense and profit provision to be applied to the adopted loss costs, along with any modifications to the loss costs that are appropriate for its book of business or marketing strategy, and naming an effective date. In most jurisdictions, this filing can specify that the filed multiplier will remain on file to be automatically applicable to future updates filed by the advisory organization.

The remainder of this letter provides comments on the section labeled "The Filer."

In general, this section appears to be unnecessarily specific (and in some cases perhaps also inaccurate) with respect to the product development aspect of a filer's process. It also addresses only new product development that results from market analysis, while most filings are for revisions of existing programs and/or related to advisory organization filings. I suggest that the product development discussion be shortened, simplified and made less specific.

In addition, I offer the following specific comments/edits on "The Filer" section:

Paragraph 1 - Third party filers do not "first identify a need for the insurance product." And I'm not sure that it's true that managing general agents do, either.

Page 11 first bullet labeled "Analysis": If this bullet is retained, it should discuss other frequent precipitators of filings, including legislation, regulations and court cases. "Risk financing" can be added to the third line discussing non-insurance mechanisms.

Page 11 second bullet labeled "Development": I am not sure that the first two sentences accurately describe the contract drafting process and internal corporate assignment of responsibilities for many filers, particularly as they apply to the "legal staff." I suggest that these sentences be made less specific as to who is responsible for what: the contract language is drafted and evaluated; legislative and regulatory requirements are considered.

Page 13 - last bullet labeled "Commissioner/Board Decision": The only decision-making Board that I am aware of no longer exists, although there may be others of which I am not aware. Perhaps this label can be modified.

Page 13, last sentence: It seems that it should be unnecessary to say this, but my experience shows that it would be helpful to insert the word "reasonable" in the sentence, so that it reads "When the filer is asked to respond, a specific reasonable time deadline should be provided...."

Thank you for the opportunity to offer these comments. I would be happy to answer any questions they may raise.

Mary Van Sise

