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CHAPTER TWO

The Filing Process

The insurance filing process is a cooperative effort between filer and regulator. In this process the proposed product is presented by the filer to the regulator for review and/or approval. The product must comply with state laws and regulations. The contract language should be clear and, within regulatory judgment and/or law, “readable” as required. The pricing and wordage of the product, therefore, must be consistent with statutory and regulatory requirements.

The Filing

What is a “filing?” Webster’s New World Dictionary simply defines “filing” broadly which includes: a collection of information arranged in order. In general, however, an insurance filing—whether submitted electronically or through other means—may be said to be a mechanism for an entity to use in seeking to meet certain requirements of a regulatory authority to obtain eligibility, or some other form of status or approval. In particular, an insurance filing may require the submission and evaluation of large amounts of complex information. This information is central to the regulatory process. For the best answer to this question, however, you should become familiar with how the term “filing” is defined in your state.

Insurance filings are made by several kinds of entities. Filings are made by, for, or on behalf of, risk-bearing entities—i.e. insurance companies. Filings can be made individually by each insurer or insurer-group—either by its own staff or by a contracted third party administrator filing. Advisory organizations such as the American Association of Insurance Services (AAIS), the Insurance Services Office (ISO), the National Council on Compensation Insurance (NCCI) and the Surety and Fidelity Association of America (SFAA) are entities authorized under each jurisdiction’s laws to make insurance filings on behalf of their members and subscribers—e.g. insurance companies.

What is to be filed? Different state filing requirements may be applicable to each product category (i.e.—rates, rating rules, policy forms, underwriting rules, etc.) and to different categories of filers (i.e.—advisory organization filings may be subject to different rules from that of insurer filings). For example, a filing may be as simple as submittal of an insurers range selected from statutorily approved criteria (e.g. flex rating), in which case the filing might simply be approved when received by the regulatory authority. However, other filings may be quite complex, especially for some new programs, such as those requesting approval to write new commercial package policies. Such complex filings may entail actuarial analysis of its rating schemes and even legal review of proposed contract language.

While filings are made when a company develops and implements a new program, 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, or a desire to simplify or enhance an existing program. Such revisions can range from short, simple, straightforward submissions, to very complex documents as was previously mentioned. Additionally, some filings will pertain to an insurer's response to material filed on its behalf by the company's advisory organization.

Rate filings are generally made by insurers on a regular basis in response to updated insurance experience, as discussed in Chapter Three titled "The Basics of Property and Casualty Rate Regulation." Rate revisions may also be filed in response to legislation, regulation, court cases or other changes in the underlying program. Rate filings additionally may be precipitated by a loss cost filing made by an insurer's advisory organization.

While member and subscriber insurers are entitled to have their advisory organization make filings in their behalf, some advisory organization customers may not give their advisory organization binding authority—which is to say 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. Insurers that have given their advisory organization "file on behalf" authority may, however, choose at any time to make a simple filing notifying the regulator of their non-adoption of the advisory organization's filing. 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.

For property and casualty lines of business, 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 cost, 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's loss cost filing. You may want to read Chapter Three to gain a basic understanding of how the loss cost filing process works.

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 Loss Cost 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 Filer

The party making the filing (e.g. insurance company, advisory organization, third party administrator), is referred to as the “filer.” The steps in the insurance product development cycle that an insurer or advisory organization might take to bring a new insurance product before the regulator will now be examined.

The insurer or advisory organization would first identify a need for the insurance product. This step is followed by drafting the contract language, including the main policy form, the coverage page or declarations and any endorsements that might be used to amend the policy. Actuaries would price the product and develop rating rules or actuarial memoranda. The insurer or advisory organization would develop underwriting rules to guide marketing and underwriting staff in deciding whom to accept as a policyholder and whether other coverage limitations are required.

Once a contract has been drafted and priced, the insurer or advisory organization needs to determine whether it needs to be filed with the insurance regulator. Ideally, during the development phase, the insurer or advisory organization would review applicable product standards and filing requirements to assure that the submitted filing is complete and compliant so a final approval/acceptance disposition would be anticipated. The filing process is a two-way street. It is relatively easy for state regulators to process a complete and compliant filing. Delays occur when the filer has not taken the time during the product development process to correctly identify the state-specific product regulatory requirements. The availability of the speed-to-market operational efficiency tools makes this process easier and more transparent.

Below is a more complete explanation of the typical steps applied in the product development process for a new insurance product. Many or all of these same steps may also be applied in regards to making a revision to a current product filing or in meeting other product needs of the filer requiring regulatory approval/acceptance.

- **Analysis:** This phase involves identification of risk faced by individuals, families and businesses. Once risks have been identified, appropriate treatment of the risk is needed. Treatment of risk may be accomplished in a number of ways, such as through risk financing transfers (e.g. insurance) and non-insurance risk financing transfers (e.g. hold harmless agreements). However, this text will focus on the development of insurance products to meet the nation’s financial risk transfer needs. The product development staff at the filer’s office must assess whether its prototype is an appropriate risk transfer device and figure out whether the product being contemplated is marketable. Analysis may also involve modeling.
- **Development:** During this phase, appropriate contract language is drafted and evaluated. It is incumbent upon those developing the filing to consider the statutory and regulatory requirements for the insurance contract and draft policy language that is consistent with these laws and regulations. Use of Speed to Market Tools should make this process simpler and straightforward. In addition to contract language, rating rules and rates may need to be developed for the new or revised

product. Underwriting rules will also need to be developed. Often underwriting rules, that help determine eligibility for the program and itemize any restrictions that might be used to limit coverage available to certain individuals, will be developed at the same time. In some states underwriting rules must be filed with the regulator.

- **Submission Requirements:** During this phase, the product is converted from its developmental stage into a filing proposal for submission—i.e. a filing. Most often the filing would be submitted electronically (e.g., SERFF). The filer would additionally have available various Speed to Market Tools, which enhance uniformity in the filing process.

To accomplish this task the filer would begin by reviewing the state’s filing requirements for that particular insurance coverage—whether it is a property and casualty or a life and health insurance product. Today the filer would be encouraged by the regulator to locate the applicable Product Requirements Locator (described in Chapter 7) on the NAIC website (www.naic.org), if available for this type of business in this state. The Product Requirements Locator can be a very helpful speed-to-market tool for filers to quickly locate the product rate, rule, and form filing requirements needed by each state. Should the state not be listed in the Product Requirements Locator, the filer could then click the NAIC homepage on the U.S. Map identified as “State Insurance Department Web Sites.” The U.S. Map will open so that the filer can choose the state insurance regulatory agency website needed to provide filing requirement information for that product.

- **Transmittal Document:** Now that the filer is knowledgeable regarding the state filing requirements for the product to be submitted to the regulator(s), the filer will need to complete all necessary information contained in SERFF and/or any other transmittal documents as required, including any required transmittal documents when submitting a hard copy filing.
- **Transmission:** Once the filer has completed the transmittal document and feels confident the filing is prepared properly and will be in compliance with state law(s), it then may be sent via Internet or the mails for consideration by the regulator.

The Reviewer

Once the state insurance regulatory agency receives the filing, the filing may be assigned a tracking number for ease in identification and then sent to a reviewer. A typical process is outlined below:

- **Filing Clerk:** The filing clerk receives the new filing and provides a cursory check for its completeness. If the filing is found to be complete, it is then sent to the reviewer handling that type of insurance. If it is found to be incomplete (e.g., not in compliance), the filing clerk will contact the filer to secure the missing information. If

the filer fails to promptly supply the missing information, the filing is disapproved or not accepted.

- **Reviewer:** The reviewer analyzes the filing for completeness, compliance with laws and regulations, and any other factors applicable for the type of insurance. In so doing, the reviewer will rely on various operational efficiency tools. The NAIC speed-to-market tools, such as the Product Coding Matrices and Review Standard Checklists are described in Chapter 7. If the filing is found to be in compliance, the reviewer will approve/accept the filing or recommend approval/acceptance (if required) to the filing manager. If the filing is found not to be in compliance, an objection letter will be generated. An objection letter is a formal correspondence from the insurance department to the filer explaining filing deficiencies. Some states include a statement in the objection letter that until the deficiencies are remedied the filing is disapproved and may not be implemented. The letter may also specify the filer's legal remedy to challenge the disapproval; most often, this would be that the filer could request a hearing. Some states specify the timeframe within which the deficiencies are expected to be remedied. Such remedies may take the form of an amendment to the filing or the submission of additional supporting information. Inadvertent approval/acceptance of a form that has omitted a statutorily required policy provision generally does not negate the filer's responsibility for abiding by the required provision.
- **Filing Manager:** This position is generally filled by a senior reviewer who holds this or a similar title and is delegated authority by the commissioner regarding certain product filings. If the filing is complete, in compliance with applicable laws and regulations, then the filing is approved or accepted by the filing manager, or it may be recommended to a higher regulatory authority for disposition (e.g., approval or rejection).
- **Insurance Commissioner:** The insurance commissioner and/or other designated state official(s) may make the final decision regarding whether designated filings should be approved/accepted, rejected, or possibly have additional information requested. Note that in many states this higher decision is often delegated to the filing manager or the reviewer.

The scenarios presented above for the filer and reviewer present examples of how these processes generally work. A filing can be handled more expeditiously if it is complete initially and processed with less time spent sending and receiving communications. While this is the goal, much time has been lost waiting for correspondence to be sent between the filer and the reviewer. Therefore, it would be in the interest of both filer and reviewer, when correspondence is necessary, to exchange information with courtesy, promptness, and clarity. When the filer is asked to respond, a specific reasonable deadline time should be provided for that response to ensure timely handling of the filing.

CHAPTER THREE

The Basics of Property and Casualty Rate Regulation

The current recommendation, with permission from AICPCU/IIA if obtained, is to either copy or make a reference to include Chapter 7 titled Ratemaking from the CPCU 520 textbook of Insurance Operations, Regulation and Statutory Accounting into the handbook. If additional subjects are needed, NAIC Staff can draft as deemed appropriate.

A copy of Chapter 7, Ratemaking, was distributed to OEWG members as permission to do so was obtained from AICPCU/IIA.