Date: July 19, 2024

Associate Commissioner Mary Kwei
Market Regulation & Professional Licensing
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Via email: Mary.Kwei@maryland.gov

Re: Solicitation for Comments on Draft Bulletin Concerning Underwriting Standards

Comments submitted via electronic mail to: Mary Kwei, Associate Commissioner Market Regulation & Professional Licensing at mary.kwei@maryland.gov

Dear Associate Commissioner Kwei:

The American Property Casualty Insurance Association (APCIA) appreciates the opportunity to submit comments in response to the Maryland Insurance Administration's (MIA) draft bulletin on underwriting standards. APCIA member companies have expressed strong concern with the draft bulletin and its impact on personal and commercial lines. APCIA represents 68 percent of the Maryland property casualty insurance market and promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association.

It is APCIA's understanding that the July 8th proposed bulletin "Permissible Application of Underwriting Standards When Deciding Whether to Cancel, or Refuse to Underwrite or Renew a Risk" is meant to be supplemental to Bulletin 03-16; it would not replace or rescind Bulletin 03-16. However, our member companies have expressed concerns to suggest that the proposed bulletin represents a significant departure from existing understanding regarding application of underwriting standards. As such, and in light of the short timeline for offering feedback, please consider the following as initial comments. As noted below, we would ask the MIA to engage in a broader discussion with stakeholders prior to issuing a final version.

General Comment

APCIA and its member insurance companies believe that it is in the best interest of consumers, insurers, and regulators that the industry can react appropriately and quickly to changes in the marketplace within the bounds of the law. Insurers' ability to be flexible in underwriting risk increases insurance availability and keeps prices down for consumers.

We have strong concerns that the proposed draft bulletin will prevent insurers from exercising sound and appropriate judgment in their assumption and management of risks, which is detrimental to a healthy and well-functioning insurance market.

With regard to the bulletin's potential impact on the Maryland insurance market, APCIA member companies have raised concerns as outlined below:

Commercial Lines Impact

The assertion in the draft bulletin that – "If a risk falls within a category included in a filed rating plan, then the rate should be adequate to cover the risk." – is very problematic. Our members feel that this assertion that rate adequacy is available across a category included in a filed rating plan is overly simplistic and does not take into consideration specific criteria of the actual risk at issue. This is particularly difficult in the commercial lines space where polices are customized and produced in conjunction with the specific needs of an insured entity as it fails to account the specific criteria of the actual risks being covered, such as prior loss history, the aggregate exposure of the insurer and the mix of its book. Additionally, it does not consider changing external factors and nuances that increase the total risk of losses and severity of such losses.

The fact that an insurer files rates for a risk category does not mean that the insurer has available or unlimited appetite for the risk. Using the example of tract housing, an insurer may develop a program for builders of tract housing as part of business operations to make acceptance of some measure of exposure available to them. This does not mean that this insurer is able to accept all risks that specialize in tract housing. The bulletin, as written, would forces insurers to accept risk beyond their determination of appetite. Further, it may serve to have an adverse impact on product availability as insurers would have to consider if withdrawal of rates is preferable to forced exposure they are not able or willing to accept. This outcome would be restrictive to insurance markets and potentially deny consumers seeking coverage that would otherwise be able to find it.

While the proposed bulletin does not rescind or replace the original 2003 bulletin, and is meant to supplement it, it does not provide sufficient clarity as to when a rating rule covers a risk. Both the original bulletin and the proposed draft bulletin will require review of every rate filing to determine if insurers can apply underwriting guidelines to decline, cancel or non-renew.

For example, if an insurer adopts the ISO rating plan, which includes a filed class code for an exposure it does not accept (communicated via guideline), the insurer will have to modify the rating plan by removing that classification of risk if it intends to decline or non-renew the risk. This is extremely cumbersome for insurers, and detrimental to product availability in the market.

Personal Lines Impact

Application of the proposed bulletin would be highly problematic for carriers seeking to write policies in changing and dynamic personal lines insurance markets. Insurers utilize underwriting guidelines and standards based upon a number of factors, some of which include appetite, loss ratio, economic factors, and legal issues. These factors have been adopted to respond to a constantly changing market to allow insurers to meet their commitment to pay claims when needed. Insurers unable to exercise underwriting guidelines according to their own experience, book profile, and risk assessment endanger the financial underpinnings needed to meet the commitments made to policyholders.

To further illustrate the real-world consequences of the bulletin language as drafted, our members have provided an example of insurance coverage availability for new vehicles makes and new vehicle models.

Currently, many insurers file a method to rate a vehicle based on vehicle costs when no symbol can be assigned, as with new vehicle producers such as Rivian or Lucid, or with new models from existing brands such as the Kia EV9. This allows consumers who purchase a vehicle new to the market to obtain insurance for that vehicle regardless of whether insurers have added all new vehicles to rate filings with appropriate symbol assignments.

This bulletin implies that by filing a rule for pricing based on vehicle cost, a rate can be created for any vehicle, despite having no symbol assignment or intended rate, and therefore an insurer with this rule would be required to write all vehicles quoted, regardless of risk appetite, or to maintain a filed list of each vehicle which the insurer finds unacceptable and make a filing each time an individual vehicle is added or removed from the list, rather than simply updating internal underwriting guidelines.

This creates an environment where the options or the insurer are either additional filings, decreased availability of insurance for owners of new vehicles, or an increase in loss costs -- and subsequently premiums -- due to a requirement for insurers to accept vehicles at inadequate premium levels. These changes bring the additional burden of increased workloads for insurers and the MIA.

Recommendations

APCIA strongly recommends MIA engage in dialogue with insurers and other stakeholders to discuss the broad impact the draft bulletin will have on fundamental insurance underwriting practices, the potential for the bulletin to adversely impacting Maryland insurance markets, and potential improvements or solutions to the concerns expressed by carriers above.

As APCIA has solicited feedback and suggested improvements to the current draft language, we are providing those suggestions below. However, we believe that even if fully adopted, these suggestions will not resolve all concerns the bulletin language raises.

APCIA members have recommended that the bulletin be limited in scope to personal lines, as there is little public policy justification for application to commercial risks which involve sophisticated consumers advised by brokers and risk managers.

Additionally, our members feel that it would be beneficial if MIA clarified that: 1) this draft bulletin is not meant preclude insurers from modifying their rating plan to reflect renewed business and economic purposes; and 2) insurers are permitted to include a list of risks that clearly defines risks outside of their appetites.

It has been suggested by our members that insurer limitations on use for factors for cancellation and nonrenewal be limited to not being able use a sole factor for such determinations and that the language of the bulletin be changed to incorporate the term “solely” as needed to effect such change.

Thank you for the opportunity to submit comments. Please do not hesitate to contact us if we may be of further assistance.

Sincerely,

Nancy J. Egan, Esq.
State Government Relations Counsel
American Property Casualty Insurance Association (APCIA)
Nancy.Egan@apci.org