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STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE

45 Fremont Street, 21st Floor
San Francisco, California 94105

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PROPOSED PLAN OF OPERATIONS TEXT[1]
CALIFORNIA LOW COST AUTOMOBILE INSURANCE PROGRAM

Amend Section 8 to read as follows:

Sec. 8. DETERMINATION AND FULFILLMENT OF PRIVATE PASSENGER NONFLEET LIABILITY LOW COST AUTOMOBILE INSURANCE PROGRAM QUOTAS

[Paragraph A remains unchanged.]

B. Limited Assignment Distribution Procedure

Groups of insurers not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement shall have one servicing company which writes LCA business on behalf of those members of the arrangement which choose to buy-out from their LCA quotas.

1. LAD servicing companies ~~serve at the pleasure of~~ are appointed by the Commissioner and must meet and continuously maintain the following eligibility requirements~~:~~. If at any time, the servicing company does not meet one or more of these eligibility requirements, the servicing company must notify the Plan. These requirements are applicable to the individual insurer that is applying to serve as a LAD servicing company.

a. Write at least .5% of the voluntary private passenger nonfleet car years as defined in Section 8.A.1 written in the state of California. If the individual insurer does not meet the .5% market share and is part of a group of insurers operating in California under common ownership, control, and management, the voluntary private passenger nonfleet liability car years of all insurers in the common ownership, control and management group combined may be used to fulfill this requirement.
b. Have a statutory capital and surplus of at least $25,000,000 ~~surplus~~.

c. Have and maintain a net premium to surplus ratio that does not exceed 3 to 1.

d. An A.M. Best's financial rating of A- or better for a continuous three year period from the most current publication date of an applicant's A.M. Best rating. A financial rating from an alternative rating service cannot be used to fulfill this eligibility requirement.

e. Have been licensed and writing private passenger automobile liability insurance without restriction for a period of at least three years in California.

~~e.~~f. Certify to the Commissioner its ability to

(1) comply with the requirements of the Low Cost Program and applicable regulations, and
(2) service the LAD contract(s).

2. The Commissioner has the option to consider a LAD servicing company application from an insurer that does not meet the following eligibility criteria:

a. The market share requirement may be waived if the market share of the individual insurer, or if applicable, the combined market share of the group of insurers is less than .5%. ~~writing less than .5% of California voluntary private passenger nonfleet car years or which has no market share, provided~~ However, the insurer or group of insurers must ~~agrees to~~ meet the market share eligibility requirement within three years from the date the insurer becomes a LAD servicing company. ~~Appointment as LAD servicing company is subject to approval by the Commissioner.~~
Exception: An insurer appointed and serving as a LAD servicing company at the inception of this LAD program that does not meet the market share eligibility requirement of this LAD program ~~or that has no market share~~ shall agree to meet the market share requirement within three years of the effective date of this Section, in order to ~~be eligible for appointment~~ continue as a LAD servicing company.
b. The A.M. Best rating of A- or better may be waived, provided the individual insurer has an A.M. Best rating. Not Rated (NR) shall be considered an A.M. Best rating. An exception to an NR rating may be considered when an NR rating has been given for a change of control or similar situation where financial stability is not an issue.

c. The three-year period that the insurer must be licensed and writing private passenger automobile liability insurance in the state may be waived.
The Advisory Committee may recommend to the Commissioner that a company who does not meet one or more of the eligibility criteria in Sections 8.B.2.a through c above be appointed as a LAD servicing company. ~~Appointment as a LAD servicing company is subject to the approval of the Commissioner~~.

3. The following LAD servicing company eligibility requirements are not subject to exception in the evaluation of an insurer to serve as a LAD servicing company:

a. The statutory capital and surplus requirement
b. The net premium to surplus ratio requirement
c. The financial rating from A.M. Best

4. When the estimated Low Cost Program Private Passenger Nonfleet AIP premium based upon the first quarter (February 1 through April 30) quota distribution report is greater than one million dollars, each servicing company shall be subject to a limitation on additional LCA assignments it may write on behalf of buy-out companies. This limitation shall be determined annually in accordance with the following formula:
Limitation = [Market Share of Available Eligible LAD Buy-out Companies]

[ ] + 10%
[______Number of Active Servicing Companies___________]

The resulting percentage shall be rounded to the nearest whole percentage. The market shares of the available eligible LAD buy-out companies shall include the market shares of current buy-out companies and the market shares of companies who are otherwise eligible to buy out in LAD in the future. Active LAD servicing companies are those receiving LAD assignments through the LAD arrangement.

The servicing company limitation on additional LCA assignments shall be subject to annual review by the Advisory Committee.

If the estimated Low Cost Program Private Passenger Nonfleet AIP premium is one million dollars or less, there shall be no limitation on the additional LCA assignments a servicing company may write.

~~2.~~ 5. Servicing company records for LCA business written on behalf of buy-out companies shall be subject to inspection and audit at the request of the Advisory Committee. The audits shall be conducted for the purpose of monitoring LAD servicing company compliance with insurance laws, the servicing company contract, LCA insurer performance standards, and LCA Plan rules and procedures. Such performance audits shall be conducted from time to time as determined by the Advisory Committee. The Advisory Committee may appoint such auditors as the Advisory Committee may select to conduct the audits and/or request the LAD servicing company to perform self audits. The cost of a LAD servicing company audit shall be borne by the Program, except follow-up audits required to determine correction of deficiencies or procedures. Costs of such follow-up audits may, at the discretion of the Advisory Committee, be assessed against the LAD servicing company.

Audit reports shall be prepared in writing and furnished only to the Advisory Committee members (excluding members who represent another LCA LAD servicing company) and to the LAD servicing company. Audit reports shall be furnished to the LAD servicing company for response and be reviewed in executive session by the Advisory Committee.

6. Monitoring Servicing Company Eligibility

The Plan will annually review the eligibility of each servicing company to insure it continues to meet eligibility requirements. Such review may include, but is not limited to, verification of any or all of the eligibility criteria in Section 8.B.1, review of quarterly financial statements filed by the servicing company with the Department of Insurance, and monitoring of the volume of LAD business written in relation to any applicable LCA assignment limitation.

If the Plan determines that a servicing company does not continue to meet one or more of the eligibility requirements in Section 8.B.1, the Plan shall immediately provide written notification to the servicing company and Advisory Committee. If the servicing company advises the Plan that it no longer meets one or more eligibility requirements, the Plan shall verify the information and provide written acknowledgement to the servicing company. The Plan shall immediately advise the Advisory Committee, in writing, that the servicing company no longer meets one or more of the eligibility requirements. The Advisory Committee may recommend to the Commissioner remedies, including but not limited to, providing a period of time to remedy the cause of ineligibility or termination of the LAD servicing company.

7. Monitoring Buy-out Capacity

AIPSO, acting on behalf of the Plan, will review on a quarterly basis the volume of additional LCA assignments written by each servicing company on behalf of buy-out companies in the LAD arrangement and advise the Plan.

If an assignment volume limitation exists, AIPSO's review may include an estimate as to

when the servicing company might approach, meet, or exceed the limitation. The Plan will provide the servicing company and Advisory Committee with written notification on the status of that servicing company's capacity to continue to accept LAD assignments.
The Plan will bring any servicing company that either is expected to exceed or has exceeded the LCA assignment limitation to the attention of the Advisory Committee. The servicing company shall be provided at least 20 days advance written notice of the Advisory Committee meeting at which the matter will be discussed. During the period between notification to the servicing company of meeting or exceeding its limit and the date of the Advisory Committee meeting, the servicing company will continue to accept buy-out company LCA assignments.
If a servicing company is either expected to exceed its limitation or has exceeded its limitation, the Advisory Committee may recommend to the Commissioner remedies including but not limited to one or more of the following:
a. Prohibit the servicing company from negotiating any new LAD buy-out

contracts and continue making assignments for existing LAD buy-out arrangements.

b. Solicit one or more additional LAD servicing companies.
c. Any other remedy deemed appropriate by the Advisory Committee.

8. Termination of LAD Servicing Company

a. Conservation, liquidation or similar order of the Department of Insurance

If a servicing company is terminated due to a conservation, liquidation or similar order of the Insurance Commissioner, the Advisory Committee and Plan will be guided by the following:
(1) The Plan will provide immediate notice to the buy-out companies that the LAD servicing company will no longer be receiving Program assignments under LAD as of a specific date. Buy-out companies will have 90 days to either obtain another LAD buy-out arrangement or to prepare to receive their own LCA assignments.
(2) LCA assignments to the servicing company will be restricted. The LCA assignments that would have otherwise gone to the servicing company under the LAD arrangement will be distributed to companies with quotas who are not LAD buy-out companies.
(3) The Advisory Committee may review the capacity of any other active LAD servicing companies to handle additional LCA assignments. At its discretion, the Advisory Committee may solicit another LAD servicing company.
(4) If another LAD servicing company exists, the former buy-out companies will be temporarily excused from receiving LCA assignments for a period of 90 days, although each company's quota continues to accrue, during which time each company may obtain another LAD buy-out arrangement, if the company chooses to do so.
(5) If the opportunity to buy out with another active LAD servicing company does not exist, the former buy-out companies will be temporarily excused from receiving LCA assignments for a period of 90 days, although each company's quota continues to accrue. At the conclusion of the restriction period, companies must be prepared to handle their own LCA assignments.
(6) The LAD servicing company must provide the Advisory Committee with a plan for the disposition and/or handling of its in-force LCA policies in accordance with Section 14.F, unless otherwise directed by the Commissioner.

b. Any Other Reason

If a servicing company is terminated for any reason, other than those indicated in Section 8.B.8.a., the Advisory Committee and Plan will be guided by the following:
(1) The Advisory Committee will provide the servicing company with at least 90 days written notice of such termination. The servicing company will continue to receive LCA assignments on behalf of its LAD buy-out companies until the termination date. After termination of the LAD arrangement, the former servicing company shall be responsible for the LCA assignments generated by its quota and for all in-force LCA policies written during the LAD arrangement.
(2) The Plan will provide the buy-out companies with at least 90 days written notice of termination of the servicing company, cancellation of the buy-out contracts, and dissolution of that LAD arrangement. Such notice shall indicate that the buy-out companies must either seek another LAD arrangement or be prepared to receive and write LCA assignments.
(3) The servicing company may seek a LAD buy-out arrangement for its LCA assignments and in-force LCA policies.

c. Termination of Buy-out Company Contracts

When the procedures in Section 8.B.8 above are utilized, the existing contracts between the servicing company and buy-out companies are terminated and are subject to the provisions contained herein.

~~3~~. 9. Insurers that write 5% or less of California voluntary private passenger nonfleet

car years as defined in Section 8.A.1 may buy out from their LCA quotas with approval of the Manager.
~~The Committee and Commissioner have the option to consider a buy-out contract for an insurer writing over 5% of California voluntary private passenger nonfleet car years. Such buy-out is subject to approval by the Committee and Commissioner~~:
The Advisory Committee may recommend to the Commissioner that an insurer writing over 5% of California voluntary private passenger nonfleet car years may buy out from its LCA quota. Such buy-out is subject to the approval of the Commissioner.
Companies may apply to the Advisory Committee for an exception. The Advisory Committee shall evaluate each exception and advise the Commissioner as to whether or not it recommends to accept or deny a new exception or revoke an existing exception for any circumstances.
Annually, all company exceptions will be reviewed by the Advisory Committee based upon each company's first quarter (February 1 through April 30) quota distribution reports. The Advisory Committee shall advise the Commissioner whether or not it recommends the exception continue or be revoked. Any company whose market share equals or exceeds 5% may have its market share exception revoked. If a company's market share exception is revoked, the Plan shall notify the buy-out company and servicing company by June 30th that the buy-out contract will terminate as of December 31 of that calendar year.

~~4.~~ 10. The Advisory Committee shall recommend, subject to the Commissioner's approval, ~~and Commissioner will approve~~ a standard LAD servicing company and buy-out company contract for use with the LAD program, including the minimum length of such contract, which the parties may use if they choose to do so. Any substantive modifications to the standard contract must be approved by the ~~Advisory Committee and the~~ Commissioner before the contract may take effect.

~~5~~. 11. The servicing company shall submit to the Manager an original of each buy-out contract, ~~as well as~~ and any subsequent amendments. The actual contract fee negotiated between the parties shall not be specified. The Manager shall maintain a buy-out contract file. The Manager shall review each contract within 10 days of its receipt. If the Manager determines that the buy-out contract substantively differs from previously approved standard buy-out contracts, the Manager shall advise the servicing company of the differences, and if appropriate, permit the parties to seek an exception. If the Manager determines that the buy-out contract does not substantively differ from previously approved standard buy-out contracts, the Manager shall provide a copy of the contract to the Commissioner.
~~6.~~ 12. The contract shall contain provisions agreed upon by the servicing company and the buy-out company regarding the buy-out company's Program renewal business, and the obligations of the buy-out company with respect to the assignment period.

The contract may start on a date which the Plan, the buy-out company, and the servicing company specify, and shall run to the end of any calendar year.

~~7.~~ 13. In force Program policies of the buy-out company in existence at the time of the

effective date of the buy-out contract may be transferred to the servicing company upon expiration. The transfer must be agreed upon by the servicing company and the buy-out company in the contract. In addition, each insured transferred must meet the eligibility requirements for a Program renewal.
The buy-out company will verify the eligibility of each Program insured for a renewal in accordance with Section 30. If the insured is eligible for a Program renewal, the buy-out company will notify the insured and the producer that the Low Cost Auto policy is being transferred to the servicing company. The servicing company shall issue a renewal policy in accordance with the procedures in Section 30. If the buy-out company determines that the insured is no longer eligible for a Low Cost Auto policy, the buy-out company will issue a notice of nonrenewal in accordance with Section 30.

~~8.~~ 14. ~~A LAD servicing company may assume additional assignments from the Program twice its own current LCA quota, so that it may carry three times that volume, without prior written approval of the Commissioner. Additional LCA assignments beyond the limit may be assumed by the servicing company, but only with the prior written approval of the Commissioner.~~

The Manager shall provide the Advisory Committee and Commissioner with a quarterly report of the buy-out contracts in effect.

~~9~~. 15. Once the LAD buy-out contract has been approved in accordance with the

provisions of this subsection, the Plan shall send all LCA assignments for all insurers in that LAD arrangement to the servicing company. Annually, the Plan shall indicate how much of the LAD servicing company's LCA business was needed to fulfill each buy-out company's quota. Any over/under assignment of the insurers in the LAD arrangement shall be attributed to the servicing company.

16. If a conflict exists between Section 8.B of this Plan and buy-out contracts, the provisions of this Plan shall apply.

[The remainder of Section 8 is unchanged.]

Amend Section 14 to read as follows:

Sec. 14. GENERAL PROVISIONS

A. Reporting of Statistical Data

All of the data necessary to comply with the distribution procedures shall be reported to AIPSO by each insurer subscribing to this Plan or by the statistical agencies designated by the insurer. Each insurer agrees to permit its statistical agent to release this data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its California Low Cost Automobile Insurance Program, ~~experience~~ and Voluntary Private Passenger Nonfleet net direct automobile data in accordance with the annual AIPSO Statistical Program.

It is the responsibility of each insurer to ensure that the above statistical reporting requirements are met if they furnish the data directly or if they utilize a designated statistical agency. Any insurer or statistical agent that does not materially comply with the above requirements shall be referred to the Advisory Committee for remedial action and, if deemed necessary, the Department of Insurance.

Every insurer shall keep records of its LCA experience, including the information required by California law, in such a manner as to enable it to report as required by the Legislature, the Commissioner, and/or Manager. Each insurer shall make any reports as required by the Legislature, the Commissioner and/or Manager.

If an insurer fails to report its data in accordance with the Annual AIPSO Statistical Program requirements, or if in the reasonable judgment of the statistical agent and AIPSO, the data the insurer reports is inaccurate, the statistical agent designated by the insurer shall estimate the data. In such instances, the statistical agent is authorized to estimate the data and release it to AIPSO. It is the responsibility of the insurer to provide the statistical agent with corrected or appropriate data. Upon receipt of the corrected or appropriate data from the insurer, the statistical agent will resubmit the data to AIPSO in accordance with Plan rules. Any insurer whose data has been estimated and who does not materially comply with data correction procedures contained herein shall be referred to the Advisory Committee for remedial action, and if deemed necessary, the Department of Insurance.

[The rest of the Section remains unchanged.]

Amend Section 15 as follows:

Sec. 15 . RATE DETERMINATION

A. General

1. All risks placed through the Program shall be rated in accordance with the approved rules, rates, and surcharges filed on behalf of all insurers subscribing to the Program by AIPSO.

2. AIPSO shall file with the Commissioner any required policy forms on behalf of all insurers subscribing to this Program.

3. For the purposes of the filings in Sections 15 A.1 and 2, each insurer subscribing to the LCA is a subscriber to AIPSO and authorizes the Commissioner to accept such filings on its behalf.

~~4. All of the statistical data required to develop the appropriate rates shall be furnished to AIPSO by each insurer subscribing to this Program or by a statistical agency designated by such insurer.~~

All of the statistical data required to develop appropriate rates shall be reported to AIPSO by each insurer or by the statistical agencies designated by such insurer. Each insurer agrees to permit its statistical agent to release such data to AIPSO and agrees that its statistical agent shall be permitted to furnish AIPSO with statements of its California Low Cost Automobile Insurance Program experience. All statistical data shall be provided in accordance with the annual AIPSO Statistical Program.

It is the responsibility of each insurer to ensure that the above statistical reporting requirements are met if they furnish the data directly or if they utilize a designated statistical agency. Any insurer or statistical agent that does not materially comply with the above requirements shall be referred to the Advisory Committee for remedial action, and if deemed necessary, the Department of Insurance.

5. The Committee shall review the rates annually and recommend to the Commissioner any necessary rate revisions. If the Committee determines that no rate revision is indicated, it shall so notify the Commissioner in writing.

[The remainder of the Section remains unchanged.]

[1] The proposed changes amend the California Automobile Insurance Low Cost Program Plan of Operations approved by the Commissioner.

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