

## MEMORANDUM

TO: Members of the Interstate Insurance Product Regulation Commission  
("IIPRC" or "Commission")

FROM: Chris Doane and Brad Harker  
Pennsylvania Insurance Department

Beth Berendt and Carol Sureau  
Washington State Office of Insurance Commissioner

DATE: May 11, 2007

RE: Proposed amendments to the "Mix and Match" provisions of the draft  
Operating Procedure for the Filing and Approval of Product Filings  
("Product Filing Rule")

On its April 23, 2007 teleconference meeting, the Management Committee of the IIPRC approved for consideration by the IIPRC a draft Product Filing Rule. The rule, as approved by the Management Committee, contained revisions drafted by Vermont and Ohio that would permit the so-called "Mix and Match" concept through which the IIPRC may give approval to an insurer to offer a combination of Compact-approved product components and state-approved product components under certain circumstances.

Prior to the call, Pennsylvania circulated a memo raising serious reservations about the proposal and requesting that a legal analysis be performed by outside counsel for the IIPRC or the NAIC staff on, inter alia, whether the laws of Pennsylvania or other states could be used to prevent the use of a combination form in their given jurisdictions if the combination of such forms had been approved by the Commission. Further, because the most recent version of the product filing rule was distributed to members the morning of the Management Committee meeting, there was little time to review and respond to the current draft before the call. Ultimately, the Management Committee voted to reject Pennsylvania's request and approved the proposed rule as drafted (with Pennsylvania voting to "abstain" and Washington voting "no.")

Following the call, Pennsylvania and Washington have worked with both Ohio and Vermont to achieve short, but important, proposed changes to the Product Filing rule that would raise our comfort level considerably and would obviate Pennsylvania's request for a legal opinion. Ohio and Vermont indicated that they have no objection to these changes, in substance.

A redlined copy of these proposed changes is attached for your review. To summarize, the changes would:

- Require insurers to provide the compacting state with informational copies of the combined forms upon request. This will provide states with readily accessible specimens to use to evaluate potential conflicts between state and compact forms, as well as for use in dealing with consumer inquiries.
- Permit a compacting state to make a “standing request” for such copies so that companies routinely submit the documents.
- Clarify that the Commissioner of a compacting state has the authority to prohibit the sale of combination forms – if the combination results in ambiguous, unfair, inequitable or misleading clauses.
- Clarify that the certification from the company does not create a presumption that the combination is compliant and does not prevent the Commissioner of a Compacting state from prohibiting the use of the combined form when a conflict is identified.

Pennsylvania and Washington believe that these amendments are extremely important and, if adopted, would permit each of our respective states to vote in favor of the Product Filing Rule. As such, we would ask each of you for your consideration and support of these proposed amendments.

As a procedural matter, the Rule on Rulemaking is not clear as to whether these proposed amendments may be considered and adopted at the Commission level or whether the Commission would have to vote to send the Product Filing Rule back to the Management Committee for reconsideration of the Product Filing Rule and consideration of the proposed amendments. In the event it is deemed necessary to return the Product Filing Rule to the Management Committee for our proposed amendments to be considered, we note that there is a meeting of the Management Committee already scheduled for June 1, 2007 in San Francisco. Accordingly, we are confident that, if we can garner the necessary support these amendments, they may be implemented and the Product Filing Rule approved without compromising the planned start-up date for the receipt of filings.

Thank you for your consideration of the attached amendments. If you have any questions or would like to discuss them, please do not hesitate to contact any of us at the following numbers: Chris Doane (717) 787-0324; Brad Harker (717) 783-2100; Beth Berendt (360) 725-7117; Carol Sureau (360) 725-7050.