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DEPARTMENT OF INSURANCE

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Regulatory Bulletin 2001-12

TO: Authorized Insurers, Insurance Trade Associations, Rating Organizations, Rate Service Organizations, Advisory Organizations and Other Interested Parties

FROM: Charles R. Cohen
Director of Insurance

DATE: September 21, 2001

RE: **Implementation of Product Regulation Reform**

As discussed in recent editions of the Arizona Department of Insurance ("ADOI") newsletter, in my detailed June 21, 2001 memorandum, and at the August 1, 2001 open meeting at the ADOI offices, the ADOI is officially implementing key elements of its product regulation reform initiative on November 1, 2001. The purpose of this bulletin is to discuss related implementation issues.

The regulation of insurance rates and rating rules, policy related forms and advertising is part of the ADOI's core consumer protection activities. Certain classes of insurance consumers are highly dependent upon the ADOI to assure that insurance products are legally compliant, appropriate and fair. At the same time, the ADOI recognizes that fostering a competitive marketplace for insurance products is highly beneficial to insurance consumers. The goal of this initiative is to achieve efficiency improvements that both promote competition among insurers and enhance regulatory protection for those consumers that rely upon it.

Generally, this initiative streamlines the ADOI's regulation of insurance products. We have been guided by the Speed to Market initiative of the National Association of Insurance Commissioners, in particular the guidelines developed by the Improvements to State Based Systems Working Group (IS3). This bulletin will primarily discuss the following components of this initiative:

- Adoption of standardized transmittal forms for rate and form filings
- Adoption of Review Standard Checklists for many kinds of rate and form filings
- Implementation of a process for filing, review and approval or disapproval of rate and form filings.
- Implementation of the System for Electronic Rate and Form Filing (SERFF)

Also, following public hearings to be held on October 3, 2001, I will issue the following orders:

- Updating exemptions for certain life and disability forms and certain property and casualty insurance rates and forms from filing and approval requirements;
- Updating exemptions for certain policies of commercial property and casualty insurance from cancellation and nonrenewal restrictions; and
- Updating types and lines of insurance permitted to be written by unauthorized insurers as surplus lines.

The Notices of Hearing in these matters, as well my June 21, 2001 memorandum to interested parties that includes a detailed description of the basis for the proposed updates to the exemptions, can be found on the ADOI website: www.state.az.us/id.

While this initiative is fueled by the ADOI's commitment to increased efficiency in the regulation of insurance products, the insurance industry must understand that "Speed to Market" is a two-way street. It is imperative that insurers utilize the standardized transmittal forms and Review Standard Checklists when making filings if the desired efficiency is to be achieved. The initiative cannot succeed without the insurance industry's commitment to make quality, compliant filings and to respond promptly to the ADOI's follow-up inquiries regarding the filings. As described below, the transmittal forms, checklists and the proposed filing and review process are the key components in meeting our objectives.

TRANSMITTAL FORMS

In order to facilitate the filing and review process of required rate and policy form filings, we have adopted standard transmittal forms. There is one transmittal form for property and casualty filings and two for life and health filings (one for forms, one for advertising). The property and casualty form is the form adopted by IS3 for use by all the states and for SERFF filings. The ADOI developed the life and health form to aid in the submission and review of those filings. However, we anticipate adopting a standard life and health transmittal form when one is developed by IS3. While the transmittal forms are already in use, all property and casualty insurers shall be required to submit a standard transmittal form with all product filings **effective November 1, 2001**. (Life and health insurers are not required to submit a transmittal form with SERFF filings; however, the ADOI requests that a transmittal form accompany all life and health paper filings effective November 1, 2001.) **Product filing submissions that do not include an appropriate transmission form will be regarded as incomplete and will be returned without further review.** The forms are available at the Phoenix and Tucson

offices of the ADOI and can be sent to you upon request. The forms are also readily available on the ADOI website, www.state.az.us/id.

The transmittal forms contain the most basic information necessary for recording the receipt of the transmission, determining what type of filing the insurer is making and to whom the filing should be forwarded for review. The elements required for a submission to be considered "complete" are also identified in the transmittal form. The forms for both property and casualty and life and health require the company's name, address, NAIC #, a contact person and telephone number. The form also includes the type of insurance and type of filing attached (Policy/Certificate, Disclosure Form, etc.).

An important component of the life and health transmittal forms is the "Company Officer Certification" section. The ADOI purposefully required that the certification be completed by an officer of the insurer or health plan so that the responsibility for attesting to the validity, accuracy and completeness of the transmittal and enclosures will not be delegated to personnel who cannot be appropriately held accountable for the attestation. The certification is directly related to the need for high quality filings to make this initiative successful.

REVIEW STANDARDS CHECKLISTS

The ADOI has developed comprehensive, detailed Review Standards Checklists. Each checklist sets forth in spreadsheet format a description of legal requirements applicable to the form filing, the legal authority for each requirement, and, where applicable, pertinent commentary regarding the requirement. The "Comments" section was devised to emphasize areas where errors are frequently made in filings or in areas subject to dispute in the past. The checklists also include, where appropriate, a space for the filer to identify precisely where in the form the element relating to those requirements can be found. The checklists were designed to greatly reduce, if not eliminate, the uncertainty insurers sometimes encountered in identifying the working requirements for approval of product filings. To that end, the ADOI identified and considered the unpublished requirements that may have been applied to rate and form filings in the past. Those requirements have either been eliminated or expressly stated in the checklists (along with an explanation of the legal basis).

The ADOI has been utilizing the Review Standards Checklists for its own analytical purposes since June 2001. All insurers shall be required to submit the appropriate Review Standards Checklists with all product filings **effective November 1, 2001** and are encouraged to begin using them as soon as possible. **If the appropriate checklist does not accompany the submission, it will be regarded as incomplete and will be returned without further review.** The property and casualty product checklists contain a "Certification" that must be signed by a company officer, similar to the one found on the life and health transmittal forms. Again, this is an important component to promote the quality of the filings.

The importance of the uniform use of the checklists to our ability to expeditiously review the filings cannot be overemphasized. We firmly believe that once insurers become comfortable with the checklists, they will greatly simplify the process of preparing product filings for insurers. The checklists for all major product filings are available at the Phoenix and Tucson offices of the ADOI and can be sent to you upon request. The checklists may also be found on the ADOI website: www.state.az.us/id.

STANDARDIZED PROCESS FOR FILING AND REVIEW OF PRODUCT FILINGS

As of November 1, 2001, the ADOI will implement a standardized process for the filing and review of product filings, as set forth in the draft rule attached hereto. The process is applicable to any rate or form submissions and filings that are required under Arizona Revised Statutes, Title 20, Chapters 2, 4, 5 and 6 to be filed with the ADOI prior to use. The process is not applicable to health care service organizations. The review process is divided into two periods: administrative completeness review and substantive review.

Administrative Completeness Review

The information or materials submitted to the ADOI pursuant to this process are initially considered a "submission." A submission will generally be the product filing accompanied by the appropriate transmittal form and review standard checklist. The submission does not become a "filing" until it is determined or deemed to be administratively complete. A submission is administratively complete and becomes a "filing" upon the occurrence of either of two events: (1) the ADOI notifies the filer that the submission is administratively complete; or (2) 15 calendar days have elapsed since the submission was received by the ADOI and the ADOI has not notified the filer that the submission is not administratively complete. To summarize the administrative completeness period:

- The ADOI shall determine whether a submission is administratively complete within **15 calendar days of receipt of the submission.**
- If prior to the conclusion of the administrative completeness review period, the ADOI determines that the submission is not administratively complete, the ADOI shall so notify the filer, and shall return the submission to the filer with a statement of deficiencies. If within 15 calendar days of its receipt of the submission the ADOI does not notify the filer that the submission is not administratively complete, the submission is deemed an administratively complete "filing." Upon a filer's request to expedite a particular filing, the ADOI will endeavor to issue a notice of administrative completeness before the end of the 15 day review period rather than allow the full "deemer" period to elapse.
- The ADOI's determination that a submission is not administratively complete does not constitute an appealable agency action under Title 41.

Substantive Review

The substantive review is the qualitative evaluation by the ADOI of a “filing” to determine whether it satisfies all the requirements established by statute, rule, or other law necessary to approve or decline to disapprove the filing. To summarize the substantive review period:

- The ADOI **shall complete its substantive review within 30 calendar days** of the filing being determined or deemed complete, unless a different time frame is indicated for a particular type of filing set forth in Table A of the attached draft rule.
- Upon completion of the substantive review, the ADOI shall notify the filer that either: 1) the filing is approved; 2) the filing will be disapproved unless the filer corrects deficiencies listed in the notice and files additional or corrected information before the end of the substantive review period or; 3) the filing is disapproved.
- The disapproval of a filing is an appealable agency action under A.R.S. Title 41.
- To the extent permitted by applicable statute, the ADOI **may extend the substantive review period by up to 15 calendar days** to allow time for review of additional or corrected information that it has requested. As reflected in Table A of the draft rule, filings made pursuant to A.R.S. §§20-398 and 20-1591 are not subject to any extension of the review period. Filings made pursuant to A.R.S. §§20-357 and 20-359 may not be subject to an extension of the review period, depending upon the stated effective date of the filing. Filings made pursuant to A.R.S. §20-376 are subject to an extension of the review period only with the filer’s consent.
- An insurer may withdraw a submission or filing by written notification received by the ADOI at any time prior to the ADOI returning a submission or approving or disapproving a filing.

Table A of the draft rule sets forth five types of filings that are subject to either a statutory deemer provision or that must be on file a minimum number of days before the filing may be effective. For filings subject to a 30-day deemer provision, those 30 days must necessarily constitute the maximum substantive review period, and the substantive review period may therefore not be extended. Filers must note that the ADOI will not begin to calculate the 30-day deemer/substantive review period until the filing is determined or deemed to be administratively complete. Therefore, it will be necessary for the filer to build in the administrative completeness period when deciding when to make a filing based upon its anticipated effective date. Again, upon request, the ADOI will endeavor to affirmatively determine and notify the filer of completeness rather than allow the completeness deemer period to elapse, in order to expedite the filing.

In some cases (i.e., workers’ compensation rate and form filings), the statute requires that filings must be made at least 15 days before the effective date of the filing. The

ADOI requests the cooperation of filers in making filings sufficiently in advance of the stated effective date in order to provide the full 30 days for review of the filings. However, the substantive review period may have to be shortened to as little as 15 days if the filer chooses to file on the last day permitted by law. In any event, the substantive review period will not begin to run until the submission is determined to be or deemed administratively complete, and filers must account for the completeness period when making submissions.

Requests for Additional or Corrected Information

The time frames for both the administrative completeness and substantive review periods are brief. This is by design to accomplish the ultimate "Speed to Market" goal. Insurers must be prepared to respond accurately and promptly to the ADOI's requests for additional or corrected information during both review segments. If the ADOI does not receive a response to its request for additional information, the submission will be returned or the filing will be disapproved. To avoid this result, insurers must take seriously the need for filings to be accurate, and compliant. The ADOI is prepared, whenever possible, to make the notices of deficiency in a submission or filing via facsimile and electronic mail and will accept the insurers responses to same via those means.

Promulgation of Proposed Rule

The ADOI intends to formally promulgate the draft rule following the 2002 legislative session. In the interim, it will be the Department's practice to review insurance product filings pursuant to the process set forth in the draft rule, as described in this bulletin. The ADOI intends to treat this as a "demonstration" period to identify and resolve problems that may arise as we implement this procedure. The ADOI encourages feedback from insurers, rating organizations, advisory organizations and other interested parties during this time to assist us in fine tuning the standardized process for filings. During the upcoming legislative session, the ADOI will likely seek to modify existing statutes that may conflict with the proposed rule.

SYSTEM FOR ELECTRONIC RATE AND FORM FILING (SERFF)

As of September 1, 2001 the ADOI began accepting SERFF filings for all life insurance, for 24 major property and casualty insurance lines and 104 sublines or subcategories of insurance, including personal lines and commercial lines insurance. On October 1, 2001, the ADOI will also accept SERFF filings for annuities, long term care insurance, Medicare supplement insurance, credit life and credit disability insurance and individual disability (health) insurance filings.

SERFF enables insurers to submit rate and form filings electronically to state reviewers and enables state reviewers to facilitate the management, analysis,

disposition and storage of filings. Some of the specific benefits are:

- Electronic access to state filing requirements will result in more accurate filings by insurers;
- Filing completeness check prior to SERFF submission helps ensure complete filings;
- Electronic submissions will reduce filing preparation time and eliminate the need for copying paper filings and associated delivery issues;
- Electronic processes speed the review cycle and facilitate faster reaction to market changes, enhance competitive advantage, allow products to be brought more quickly to the marketplace and accelerate revenues;
- On-line access, automated tracking and indexed retrieval facilitate better management of the filing process;
- Uniform electronic header sheets provide increased efficiencies and standardization;
- Electronic “highway” provides easy quick communication between regulators and insurers.

The transmittal forms and checklists discussed earlier in this bulletin have been incorporated into SERFF and may be completed and transmitted to ADOI electronically by those insurers participating in SERFF. Information about SERFF, including requirements for industry participation, is available at www.serffcentral.com.

Questions concerning the matters discussed in this bulletin should be addressed to Dennis Babka for life and health products, [(602) 912-4621/dbabka@id.state.az.us], and Deloris Williamson for property and casualty products, [(602) 912-4618/dwilliamson@id.state.az.us].

9/21/2001 DRAFT FOR DISCUSSION PURPOSES ONLY

**ARIZONA DEPARTMENT OF INSURANCE
TITLE 20. COMMERCE, BANKING AND INSURANCE
CHAPTER 6. DEPARTMENT OF INSURANCE
ARTICLE 00. SPEED TO MARKET PLAN**

R20-6-0001. Definitions

In this Article the following definitions apply:

“Administratively complete filing” or “filing” means information or materials filed with the Department under this Article that have been determined or allowed to be deemed by the Department to contain all of the information and materials necessary to commence a substantive review.

“Submission” means the information or materials filed with the Department under this Article that have not been determined by the Department to be administratively complete.

“Substantive review” means the qualitative evaluation by the Department of an administratively complete filing to determine whether the filing satisfies all the requirements established by statute, rule, or other law necessary to approve the filing.

R20-6-0002. Applicability

This Article applies to any rate and form submissions and filings that are required under Arizona Revised Statutes, Title 20, Chapters 2, 4, 5, and 6 to be filed with the Department prior to use. Submissions and filings with review timeframes that are different from those in R20-6-0003 and R20-6-0004 are listed in Table A. This Article does not apply to health care service organizations.

R20-6-0003. Administrative Completeness Review

A. The Department shall determine whether a submission is an administratively complete filing within 15 calendar days of receipt of the submission.

B. If, prior to the conclusion of the administrative completeness review, the Department determines that the submission is not administratively complete, the Department shall so notify the filer and shall return the submission to the filer with a statement of the deficiencies. If the Department does not timely notify the filer that the submission is not administratively complete, the submission is deemed an administratively complete "filing."

C. The Department's determination that a submission is not administratively complete does not constitute an appealable agency action under the Arizona Revised Statutes, Title 41, Chapter 1.

R20-6-0004. Substantive Review

A. The Department shall complete a substantive review of a filing within 30 calendar days after a submission is determined or deemed to be an administratively complete filing. Upon completion of the substantive review, the Department shall notify the filer that either:

1. The filing is approved;
2. The filing will be disapproved unless the filer corrects deficiencies listed in the notice and files with the Department, additional or corrected information before the end of the substantive review period; or
3. The filing is disapproved.

B. To the extent permitted by applicable law, the Department may extend the substantive review period by up to 15 calendar days to allow time for the Department to review additional or corrected information. The filings that are not subject to an extension of the substantive review period are listed in Table A.

R20-6-0005. Withdrawal of a Submission or Filing

A filer may withdraw a submission or filing by written notification received at the Department at anytime before the Department returns a submission, or approves or disapproves a filing. The filer may subsequently make a new submission.

R20-6-0006. Method of Communication

The Department may notify the filer of the Department's decision on a submission or filing by facsimile, electronic mail, or by use of the United States Postal Service. Any

other communication by the filer to the Department may be by facsimile, electronic mail, or by the use of the United States Postal Service. Notification is effective on the date of transmission, if made by facsimile or electronic mail, or on the date mailed.

Table A

Type of Insurance	Statutory Reference	Substantive Review Period	Extension Period
Rating system and forms for worker's compensation	A.R.S. § 20-357	15-30 days, depending on stated effective date of filing	0-15 days, depending on stated effective date of filing
Deviations from filed workers compensations rates	A.R.S. § 20-359	15-30 days, depending on stated effective date of filing	0-15 days, depending on stated effective date of filing
Title insurance rates	A.R.S. § 20-376	15-30 days, depending on stated effective date of filing	15 days, and additional with consent of filer
Policy forms	A.R.S. § 20-398	30	None
Title forms	A.R.S. § 20-1591	30	None