

# RPM Product Development Workshop

Regulation

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# Disclaimers and Acknowledgements

- Many thanks to Patrick Causgrove who developed and presented earlier versions of this session.
- The views expressed in this presentation are those of the speakers at this point in time. These views are not necessarily identical to those of the CAS or the speaker's employer.

# Agenda

- Purpose Of Regulation
- Issues Facing Regulators
- Issues when Working with Regulators
- Presentation of new Product and Regulatory Questions

# Overview of Regulation

# Purpose of Regulation

- Exists to
  - Protect insurance consumers
  - Prevent insurer insolvency
  - Prevent Unfair discrimination
- An insurance product is a promise
  - Monitors those who are making promises

# Regulatory Functions of DOI

- Licensing insurers
- Regulating coverage and pricing
- Conducting examinations
- Licensing producers
- Regulating claim adjusters
- Preventing fraud
- Determining the need for insurer receivership
- Providing consumer services
- Monitoring sales of insurance securities

# Regulation Today

- Most notable factors influencing the development of modern insurance regulation:
  - Insurer insolvencies
  - Availability and affordability problems
  - Inequitable treatment of insurance consumers

# The Commissioner

- Appointed or elected
- Duties include (but not limited to):
  - Organize and manage DOI
  - Execute duties of the insurance code
  - Enforce insurance code
  - Hold hearings
  - Take action when violations of law occurs
  - Issue annual reports



# Licensing

- DOI must approve and license new insurers before they can write insurance coverages in a state
- The DOI will examine
  - Initial capital and surplus sources
  - Pro forma financial statements
  - Biographical affidavits of the insurer's proposed board members, officers, and key employees

# Filing Laws

- Vary by state and line of insurance
- Vary by type of filing
  - Rate
  - Rule
  - Form
- General categories include:
  - State-mandated
  - Prior-approval
  - File-and-use
  - Use-and-file
  - No-file

# Rate Regulation

- Most visible and controversial function of a regulator
- “Rates shall not be excessive, inadequate, or unfairly discriminatory”
- Widely divergent interpretations from state to state
  - Consumer complaints
  - Special interest lobbying groups (includes insurance companies)
- Three commonly ‘discussed’ themes
  - Whether the classification systems are appropriate
  - Whether provisions for profit are fair to consumers
  - Whether the rate loadings for catastrophic losses are adequate

# Form Regulation

- DOI approval needed for:
  - Policy forms (both new and revised)
  - Insurance applications
  - Policy jackets
  - Declarations page
  - Policies and endorsements
- Form filing law can be different than that for rates
- Requirements regarding readability to insurance forms
- DOI's looking for:
  - Policy cancellation provisions
  - Loss reporting requirements
  - Claim settlement practices
  - Subrogation provisions
  - Fraud and dishonest definitions and penalties
  - Dispute resolution procedures

# Solvency Regulation

- Arguably the most important activity regulators perform
- Frequent reviews of insurers' financial condition through analyzing statements filed with regulators and the NAIC
- Monitoring insurer policyholders' surplus to ensure adequacy and liquidity
- Risk based capital (RBC) requirements
- Periodic on-site financial examinations
- Move to ORSA

# The Situation

- You want the regulator to approve your product filing
- The regulator would like to approve the filing and get it off their desk
- You know your product and company much better than the regulator
- They have more exposure to the various different industry practices
- The regulator has seen filings from numerous companies
- They know their state & their state's regulations better than you
- Your filing may be different than the “run of the mill” filing

# Basics

- Regulators are constrained by the regulations
- Filings will most likely be submitted in SERFF, “System for Electronic Rate & Form Filing”
- Most communications will be through SERFF
  - Regulators share what they need to see to approve a filing
  - You present your product through SERFF
  - The communications becomes the public record

# Issues Facing Regulators



# Issues Facing Regulators, Part I

- Staffing
  - Usually never enough credentialed (if any) actuaries
- Massive number of filings
  - How to decide which ones to really get in-depth on versus just peripheral review or reliance on the filing forms?
  - How do you maintain consistency in reviewing all the filings?
- Deemer provisions
  - Acts as a ticking clock to get review done in time before the insurer can simply deem a filing approved

# Issues Facing Regulators, Part II

- Reviewers are different between rates, rules and forms
  - How to coordinate the reviews for consistency and understanding
- Intervention of consumer watchdog groups
  - Added stress for more review
  - Complicated if regulatory opinion differs from watchdog
- Review of rates and forms may get political
  - Actuarial review may suggest rates are appropriate, but it is ultimately up to the commissioner as to what gets approved
  - Company may select less than indication, much less

# Issues Facing Regulators, Part III

- Each filing looks different
  - Managing through the different styles and levels of support can prove to be challenging
  - Leads to lots of questions given back to the insurer
- Pricing sophistication has taken over
  - How do you effectively regulate a GLM?
  - Key variables may be statistically sound, but don't make sense (no causal relationship)
  - DOI budgets don't often allow for much continuing education opportunity, so regulators may need more time to absorb advances in pricing sophistication

# Issues Facing Regulators, Part IV

- Public heat
  - Cries of redlining and availability issues
  - Price increases are unpopular
- Commissioner heat
  - It could be an election year
- Legislative heat
  - DOI could be called to ask for data calls or testify on insurance matters
  - Size of residual markets may be getting out of control
- Insurer heat
  - Going to a time and labor-intensive rate hearing
  - Insurers based in the state

# Issues When Working with Regulators

# Issues When Working with Regulators, Part I

- How much detail do you include in the filing?
  - Do you meet with the DOI beforehand?
  - Do you put minimal support in to see if they ask questions?
  - Do you use the filing to educate the DOI?
  - Competitive concerns
- Does your company have existing filings pending in the DOI?
  - Do they contain the same level of support?
  - Do the filings complement one another or contradict one another?

# Issues When Working with Regulators, Part II

- Do you understand any “desk drawer rules”?
  - Policyholder impacts
  - Profit provision
  - Geographic rating
- Have you followed the published rules?
- Understanding the burden of proof
  - If it is your duty to prove that rates are not inadequate, not excessive, and not unfairly discriminatory, how do you prove that?
  - Rate filing is an actuarial communication

# Issues When Working with Regulators,

## Part III

- What is the current political situation in the state?
  - Do you raise rates along the coast right after a major hurricane?
  - Do you ask for a large rate increase months before an election for commissioner?
- What is Plan B?
  - If you get outright disapproval, what is the rate hearing process?
  - Many times, the commissioner can be the judge in a rate hearing



# Issues When Working with Regulators, Part IV

- Do you have an exit strategy?
- How much can you rely on an approved competitor rate filing?
  - Will the DOI hold you to a different standard to support a rating variable?
- Timing of the rate filing and accompanying form filing
  - Form filing usually takes longer
  - Disputes on the forms side are not easily resolved

# Issues When Working with Regulators, Part V

- Have you considered these three broad themes?
  - The appropriateness of your classification system
    - Correlation vs. causal relationship
    - GLMs
    - Impacts on sensitive groups
  - Profit provision
    - Is the return on equity underlying the profit provision supported?
    - Excessive profits statutes or claims
  - Rate loadings for catastrophic losses
    - What models are you using?
    - Impacts along the coasts or fault lines
    - Reinsurance

# Q&A With Teams

Welcome to Volunteer Insurance  
with its chief actuary,  
Thomas G. Hess