As stated in the California Bulletin 2020-08 ("the Bulletin"), *"The COVID-19 pandemic has severely curtailed activities of policyholders in both personal and commercial lines. As a result, projected loss exposures of many insurance policies have become overstated or misclassified. This is especially true for policies where premiums are based partly on measures of risk such as number of miles driven, revenue, and payrolls which have all dropped significantly because of COVID-19."* Empire Fire and Marine Insurance Company ("EFMIC") acknowledges the impact of COVID-19 on certain of its California policyholders and makes this submission in response to the Bulletin for our refund amounts in June, July and August.

Background

The Bulletin permits every insurer reasonable flexibility in determining how best to quickly and fairly accomplish a refund of premium where appropriate using several refund methods. EFMIC in accordance with the Commissioner's guidelines, has taken prompt and fair action throughout the pandemic and continuing through this date. Further, EFMIC is prepared to take future actions, when need is evidenced, to provide premium relief for impacted policyholders by reviewing exposures and adjusting exposures or implementing future exposure adjustment in accordance with the Bulletin. Prior to the issuance of the Bulletin, EFMIC implemented a case-by-case approach to reviewing changes in exposure and premium charges for all lines of business and all business segments. We point out that the case-by-case approach has since been acknowledged by the Bulletin. This strategy was applied to the reporting lines as stated in our questionnaire. EFMIC has continued explicit conversations with California brokers and policyholders in order to analyze specific policyholders' unique circumstances so that a tailored solution can be fashioned in order to meet an individual policyholder's needs. Our case-by-case approach is a review of individual policies and/or accounts collectively upon request of the insured or the broker. The case-by-case approach is applicable to all lines where an exposure change warrants such actions.

Commercial Liability:

After review and analysis of the potential for risk to have changed as a result of COVID-19, and the contours of that changed risk, EFMIC has concluded on a going forward basis that a case-by-case approach is best tailored for our Commercial Liability segments. Our Casualty book has not seen a reduction in losses, and our ultimate results are too volatile to predict. Further, the impact of the severity losses and the new exposures arising new negligence standards from COVID-19 to businesses in all sectors cannot be predicted at this time.

In addition, in our construction and commercial automobile businesses many workers worked increased hours with fewer days off in order to meet the needs of the population during the pandemic. The longer hours and pressure to manufacture, warehouse and deliver necessary goods may have increased the severity in the line. Therefore, it is impossible to predict the ultimate impact that COVID-19 will have on this line of business.

Further, our customers due benefit from loss sensitive business that occur in many forms: retrospective rating plans, large deductibles, self-insured retentions, single-parent captives, and group captives. Much of the EFMIC book of business across all lines in this segment is loss sensitive business. Loss sensitive business, in whatever form, requires the insurer to provide claims and/or other services such as regulatory reporting, risk engineering, other vendor services including administering claims or managing claim's administrators. This responsibility and expense of administering the program is not reduced because of COVID-19. One of the key benefits to customers who choose a loss sensitive program is that the policyholder is paying a reduced premium when compared to premium that would be charged for a guaranteed cost program. Second, the policyholder also immediately realizes economic value when claim frequency decreases because the policyholder's self-funded losses are reduced. For example, for all loss sensitive programs each policyholder experiences a reduction in loss fund adjustments due to a decrease in frequency and this reduction immediately inures to the policyholders. In addition, the frequency across most lines does not generally drive premium.

In each of these segments, where a change in exposure was evident, premium credits have been provided where warranted, specific to each line of business, to individual policyholders. This was the result of a review of individual policyholder's unique set of circumstances and a determination that a refund was justifiable based upon those circumstances. Therefore, in summary, our case-by-case approach is best suited for this set of business segments because the insurance programs are loss sensitive, individualized, and therefore, individual solutions are most appropriate.

Commercial Auto

While there may be some reduction in reported claim counts, they do not tell the full story. There is strong evidence of higher Auto Liability severities during this same time period:

- The percentage of Auto Liability claims involving fatalities (as of the claim report date) is up over 16% during the COVID period, as compared to last year
- The percentage of Auto Liability claims related to reckless driving (speeding or DUI) is up over 40% during the COVID period, as compared to last year
- We anticipate an increased reporting lag during this period
- Injury costs could end up being higher as some may have delayed seeking medical treatment during this period

We are continuing to make case-by-case adjustments where a reduction in exposure is demonstrated.

Further in our Direct Markets book we have taken the following actions:

Direct Markets Segment:

Our Programs automobile line of business segment is unique as it is largely pay as you go, and premium is based on exposure reports. The reporting periods can be monthly or quarterly. EFMIC is implementing monthly exposure adjustments within the billing cycles.

In summary, our case-by-case approach is best suited for this set of business segments because the insurance programs are rated based upon individualized and dynamic data, and therefore, individual solutions are most appropriate.

We have adopted this case-by-case approach since the onset of the pandemic and plan to continue to do as long as our policyholders in the Direct Markets segment are adversely impacted by COVID-19:

Direct Markets P&C Retail- Franchise Auto Dealers:

- 80% of our customers are on a reporting form. They report the number of employees and inventory values monthly, and then we bill the dealer based upon the exposure originally bound at policy inception and a quarterly adjustment is calculated. At that time the dealer is given a credit or charged additional premium based upon the reported exposure. Recognizing that many of our dealers are furloughing employees and their business has been greatly impacted due to COVID-19, we are giving our customers the option to pay their monthly premium based upon their current employee count and inventory values in lieu of waiting for the quarterly adjustment.
- 20% of our customers do not report monthly and their premium is fixed throughout the year based on the stated exposure when the policy was bound. In these instances, we have agreed to adjust the exposure base and endorse the policy to reflect the dealer's current number of employees from April 1st through July 1st.

- Our premium for auto physical damage has not changed as our exposures, specifically related to weather related CAT events, have not changed.
- Demo vehicles – Auto dealers provide vehicles to employees for demo use. We're allowing dealers to remove these demo vehicles from our list of exposures if they provide the name of the driver – i.e. If driver is furloughed or not in office and has returned the vehicle.

Worker's Compensation

The Workers' Compensation line of business analysis considerations it is unclear as to what the ultimate results will be due to the pandemic. We cannot predict this line due to the variability of the increased medical and medical leave costs due to COVID-19.

Severity is also expected to increase due to the lag in workers' wellness care as well as care for severe illness such as cancer. We cannot discern the aggregate exposure changes at this point. While most hospitals have stopped elective procedures, they have an increase in ICU bed utilization. When states have started allowing elective procedures, the exposure might increase as previous conditions which were not serious could now require immediate surgery. Workers have also avoided going to the hospital and they now may require longer hospitalizations as they conditions have worsened.

In addition, in our construction and commercial automobile businesses many workers worked increased hours with fewer days off in order to meet the needs of the population during the pandemic. The longer hours and pressure to manufacture, warehouse and deliver necessary goods may have increased the severity in the line. Therefore, it is impossible to predict the ultimate impact that COVID-19 will have on this line of business.

In summary, in this business there is no indication that Worker's Compensation costs have been reduced as a result of COVID-19. By its nature, this is a long tail line that takes time to develop. Our ability to predict the outcome in this line is very time dependent. In addition, with new presumptions further add to the volatility. However, we do continue to make case-by case adjustments where changes in exposures are demonstrated. And, we much of this business is subject to audit.

Commercial Multiple Peril

The primary measure of potential loss exposure for commercial property is the total insured value of the real and personal property. The stay-at-home orders in response to the COVID-19 pandemic have not fundamentally changed a commercial property policyholder's exposure in terms of the value of their real and personal property.

A commercial property policyholder's loss exposure is further affected by the physical attributes and protection of the property for the insured perils. This includes the building material used in the construction of the property, presence and adequacy of fire suppression or other protection systems, human element programs to maintain property, and access to adequate water supplies and public fire brigades for firefighting operations. The stay-at-home orders have had no impact on the physical attributes of property insured, its physical protections or public resources available for firefighting operations. Curtailed activities of policyholders at insured locations does have potentially adverse impact on human element programs meant to protect property. This includes reduced inspection, maintenance and testing of critical systems at facilities and reduced human detection and mitigation of common causes of loss such as water, theft or vandalism.

Finally, a commercial property policyholder's loss exposure is affected by the type of operations occurring at the insured property. Those policyholders who have curtailed activities have potentially reduced some sources of loss. For example, a restaurant that has ceased operations has significantly reduced their potential for kitchen fires or a manufacturer who has ceased operations has significantly reduced their potential for fire starting from an overheated piece of machinery.

However, the vast majority of this business is considered Loss-Sensitive. Loss Sensitive business includes retrospective rating plans, large deductibles, SIRs, Group and Single Parent Programs. The reduction of claim frequency under any Loss Sensitive business programs are immediate help to insureds. The excess or severity losses only impact the insurer regardless of COVID-19.

However, as noted in the proceeding paragraphs, the reduction or elimination of some limited sources of loss may be offset by increases in other hazards, while the fundamental exposure of the physical property itself has not changed. As such, we conclude that there has been no meaningful reduction in loss exposure with respect to real and personal property in the aggregate.

The risk of physical loss or damage to real or personal property has not materially changed for commercial property policyholders. Many policyholders purchase business interruption coverage, which coverage would be triggered for physical loss or damage to property insured from a covered cause of loss. During a period of significantly curtailed operations, business interruption insured exposure would be reduced in a way that reflects the curtailed operations.

Refunds

Nearly all of the case-by-case refund credits reported here have been processed. We continue committed to the case-by-case approach in all lines where reduction in exposure can be demonstrated. Further, as mentioned above, much of the EFMIC book is loss sensitive or in the case of our Direct Markets our exposure reporting periods provide immediate adjustments.

Summary

EFMIC has implemented many measures to assist our policyholders who were impacted by COVID-19, reflective of the specific needs of our policyholders. One of EFMIC's core principles is to be customer focused. We strive to illustrate that principle of putting our customers first by the listening and serving our customer's needs. In order put our California policyholders first, and prior to issuance of this Bulletin, EFMIC implemented a case-by-case exposure review strategy for customers who were adversely impacted by COVID-19. In addition, we also implemented premium credits, exposure adjustments, provided extended grace periods, waived late fees and credit reporting, and suspended of cancellation of policies for non-payment of premium.