

COM-17-001: Agent Conflict of Interest Prohibitions

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Date

April 7, 2017

To

All Approved Insurance Providers

All Risk Management Agency Field Offices

All Other Interested Parties

From

Heather Manzano, Deputy Administrator for Compliance /s/ Heather Manzano

Subject

Agent Conflict of Interest Prohibitions

Background

On November 21, 2016, the Risk Management Agency (RMA) issued COM-16-006. RMA was asked to review the memorandum and revise it to clarify roles and expectations. This Informational Memorandum rescinds and replaces COM-16-006.

A joint investigation by the Office of Inspector General (OIG) and the RMA, Special Investigation Staff (SIS) found instances of program non-compliance relating to agent involvement with loss adjustment activities. This conduct is prohibited, and violates section VI of Appendix I to the Standard Reinsurance Agreement (SRA).

This section of Appendix I states in part:

...any reference to an agent or agents also includes a subagent or subagents.

(a) Loss Adjustment

(1) The Company and its affiliates shall not permit:

(A) Its sales agents, agency employees, or sales supervisors to be involved in loss adjustment activities in a county or adjoining county where the sales agent, agency employee, or sales supervisor performs sales functions (except receipt and transfer to the Company of a notice of loss) on behalf of any AIP.

(2) Prohibited loss adjustment activities for all individuals referenced in paragraph (1)(A) and (B) include the following:

(1)(A) and (B) include the following:

(A) The supervision, control, or adjustment of a claim. The Company is solely responsible for the supervision and control of the loss adjustment process for a loss determination and all loss adjustment oversight. The agent's prohibition in loss adjustment activities is not intended to preempt any duty or obligation of the agent to provide information to the policyholder on his or her policy options, duties, rights, and responsibilities.

(B) Obtaining sales or production records for purposes of loss adjustment on behalf of the policyholder (other than simply collecting information directly from the policyholder and providing it to the Company).

This would include an agent assisting the insured with separating the production between units and subsequently providing these production records to the loss adjuster to use in completing the claim forms. If this prohibited conduct by the agent continues, the approved insurance provider (AIP) would be at risk of RMA denying reinsurance on all Multiple Peril Crop Insurance (MPCI) policy(s) involved.

Action

RMA directs each AIP to review its procedures regarding agent involvement with loss adjustment activities and to identify and correct any procedures that might otherwise violate the conflict of interest provisions of the SRA by June 1, 2017. RMA will monitor the AIP's procedures regarding agent involvement with loss adjustment activities through the AIP's Performance Review, formerly known as the National Program Operations Review. Failure of the AIP to take this action will result in sanctions outlined in section 515(h) of the Federal Crop Insurance Act (7 U.S.C. § 1515(h)).

AIPs are reminded of the requirements in Appendix I. Specifically, agents are not permitted to assist the adjustor or assist the insured in any manner regarding preparation of the claim, including without limitation, providing production by unit for use in completing the MPCI claim forms. Appendix I also prohibits the agent from accompanying the loss adjustor to the field during MPCI claim activities.

If RMA identifies situations where the agent has been involved with loss adjustment in any way (intentional or not) relating to a federally reinsured MPCI policy, appropriate action will be taken in accordance with the SRA.

DISPOSAL DATE:

Until Rescinded