Big “I” News:

Identity Theft Red Flag Rule Delayed Again ...

The FTC has delayed enforcement of the Identity Theft Red Flag Rule again, this time from June 1, 2010 through December 31, 2010. This enforcement delay follows the FTC’s appeal of the decision it lost last year to the American Bar Association, which filed a lawsuit in August 2009 challenging the agency’s expansive definition of “creditors” as including lawyers under the identity theft regulations. A similar lawsuit over the Rule was filed last November against the FTC by the American Institute of Certified Public Accountants and has not yet been decided. And, another lawsuit was filed late last month against the FTC by the American Medical Association, American Osteopathic Association, and the Medical Society for the District of Columbia, asserting that the Rule exceeds the FTC’s authority and is arbitrary.

According to the FTC press release announcing the latest enforcement delay, it is at the request of several Members of Congress. The press release also stated that “The Commission urges Congress to act quickly to pass legislation that will resolve any questions as to which entities are covered by the Rule and obviate the need for further enforcement delays. If Congress passes legislation limiting the scope of the Red Flags Rule with an effective date earlier than December 31, 2010, the Commission will begin enforcement as of that effective date.”

MAIA Update:

MAIA Launches New Website Feature — “? Of the Day”

On Monday, June 7, 2010, MAIA began featuring a daily question and answer on massagent.com. Each day the front page of MAIA’s website will display a link to a different question from Ask MAIA. Question topics include anything and everything from auto insurance to RMV procedures to commercial insurance to legal questions which may be answered by MAIA staffers including MAIA President Frank Mancini, VP of Technical Affairs Irene Morrill, VP of Government Affairs Dan Foley, VP of Communications Donna McKenna and Member Support Special Kathy Cormier.

So watch for when the little black bug appears on massagent.com and click on “? Of the Day.”

MAIA to Present First “Streaming Live” Education Program with CE Credits ...

It seems like MAIA has experienced a whole bunch of technological “firsts” so far this year ... our new website ... our first Agent Forum held on the internet ... and now our first ever streaming live class which includes continuing education credits.

You can help us make history by attending “Bonding or How our Insurance Went Bankrupt” with Robin Federici from 9—12 on June 22nd. Click here for more information or to register for the class.
MAIA Update ... continued from page 1

Governor Patrick Signs Mandatory Liquor Liability Coverage into Law ...

Governor Deval Patrick signed Chapter 116 of the Acts of 2010 into law on May 28, 2010. This new law mandates liquor liability coverage for all liquor serving establishments. Beginning on August 28, 2010, liquor licensees must provide proof of coverage with their local licensing authority when filing a request for a new liquor license or when renewing an existing liquor license. The minimum coverage limit mandated is $250,000 per person and $500,000 per occurrence.

Whether you're new to this line or have been writing it for years, we are happy to work with your office to ensure that your restaurants, bars, taverns, fraternal clubs, and package stores comply with the new law and obtain the coverage they need.

The Number One Agency, Inc. provides MAIA Members access to the following Hospitality Mutual product offerings:
Stand-alone Liquor Liability with optional GL, Assault & Battery Package Policies (Liquor, Property & General Liability) *New*
Stand-alone General Liability or Property Damage Excess Liability (up to $3 million)

Please consider notifying your clients of this change in writing. You may want to use this "sample client letter" as a starting point.

Learn more: Access Applications, Eligible Businesses, & Information online or contact the Program Coordinator, Melissa Murphy, at the Number One Insurance Agency, Inc. at 800.742.6363, by fax at 508.634.2930 or email mmurphy@massagent.com.

Comp. Corner:

General Revision of Rates Effective September 1, 2010 ...

The Commissioner of Insurance has approved a stipulation for the general revision of workers’ compensation rates, effective 12:01 A.M., September 1, 2010, applicable to new and renewal policies. This includes:

1. RATE LEVEL DECREASE OF 2.40% - The overall average decrease of 2.40% in the existing workers’ compensation average rates will vary by class.
2. EXPENSE CONSTANT REVISIONS - Expense constants will not be revised.
3. F - CLASS RATE LEVEL INCREASE OF 20.00% - The overall average increase of 20.00% in the existing workers’ compensation F-Class average rates will vary by class.
4. USL&HW ACT COVERAGE PERCENTAGE APPLICABLE TO NON-F CLASSIFICATIONS - The percentage applicable in connection with Rule XII-D-3 “U.S. Longshore and Harbor Workers’ Compensation Act” will be revised.
5. EXPERIENCE RATING PLAN CHANGES - The Experience Rating Plan Expected Loss Rates and D-Ratios will be revised and distributed by the WCRIBMA. The State Per Claim Accident Limitation and the State Multiple Claim Accident Limitation remain unchanged.
6. SMALL DEDUCTIBLE CREDITS - The premium credits applicable to the election of small deductibles under either the Massachusetts Benefits Deductible Program or the Massachusetts Benefits Claim and Aggregate Deductible Program will be revised.
7. RETROSPECTIVE RATE PLAN CHANGES - Two hazard group mappings will be available – a seven hazard group option and a four hazard group option – that are consistent with those designated by NCCI in Item Filing B – 1403. Carriers who wish to use the four hazard group option must advise the WCRIBMA in writing by August 1 of each year for policies effective on or after September 1 of that year. Carriers will be required to use the seven hazard group option for all policies effective on or after September 1, 2011. Excess loss factors will be updated. Also, there will be a new Table of Expected Loss Ranges and new State and Hazard Group Relativities. The Table of Expected Loss Ranges will be updated in accordance with NCCI Item Filing R – 1401.
8. DISEASE ELEMENTS TABLE - The rate associated with Class 0059 will change.

NO CHANGES IN THE FOLLOWING:
A. Loss Constants
B. Admiralty Law and Federal Employers’ Liability Act classifications
C. Merit Rating Program

(continued on page 3)
Comp. Corner ... continued from page 2

D. Premium Discount Tables A and B
E. Take-Out Credit
F. Qualified Loss Management Program [QLMP]
G. Weights and Ballasts Tables

Experience ratings and ARAP factors (including replacement of preliminary experience ratings and ARAP factors) effective September 1, 2010 and subsequent will be issued in due course using the new Expected Loss Rates and D-Ratios.

When the new rates and experience ratings are received and incorporated into policy issuance, carriers should no longer attach Massachusetts Pending Premium Change Endorsement WC 20 04 01 to policies. Revised Massachusetts manual rate pages will be distributed and will be available on our website at www.wcribma.org. The new rates and rating values will also be available in electronic form (Microsoft Excel and text files) on the Bureau’s website. You may also view a document prepared by the Bureau which displays the changes in manual rates by class by clicking here.

E&O Update:

By Curtis M. Pearsall, CPCU, AIAF, CPIA
Special Consultant to the Utica National E&O Program

What is the right property limit? Not an easy question to answer, is it?

As I travel around the country and talk to agents at conferences and seminars, resolving the “right” property limit appears to be one of the top 5 issues agents face today. Whether for the building or contents coverage, it seems to be more challenging than one may think. The focus of this article is the commercial property exposure, and the problem is that the limit on the policy is not an area of concern until there is a claim – but by then, it’s too late to do anything about it.

Many Approaches

There are many approaches to securing a property limit. In no particular order:

- Using the company approximator tool. This could be one they designed themselves or one of the more common industry tools such as MSB. Using one of these is a good starting point and proper use should result in a quality output. However, incorrect inputs will result in questionable outputs. Ensuring that you have full and correct information is key. Without this, errors could occur. Whether it’s inputting an inaccurate square footage, picking potentially incorrect construction components or assessing the “quality” of the construction, this can lead to an output drastically off the “correct mark.” Just because you used a company “approximator” does not guarantee the carrier will honor that number. Will they turn their back on you? It’s happened before!

- Using the limit on the current policy. The problem with this approach is that it assumes the correct calculation was done by the prior agent.

- Asking the customer what limit they want. While there are some scenarios where this is not advisable, I believe commercial clients are more sophisticated regarding rebuilding costs than homeowners clients. Thus, this approach has a degree of merit. Assist them in understanding the terms unique to property coverage like co-insurance, Actual Cash Value, Replacement Cost, Agreed Amount, etc. Are there some agents/CSRs on your team that might struggle with explaining what these terms mean and what the impact could be in the event of a claim? It’s not a bad idea to include examples in your proposal on how these terms work. Relying on the customer to provide a limit seems like the agent may be shirking their responsibilities. At the time of the claim, if the customer does not receive full compensation, my guess is that they will not be very happy. Whether this results in a claim against you is difficult to say, but losing the customer is probably a given.

- Requesting that the customer secures a professional appraisal. This is probably the best overall approach. These cost money, but there is no doubt that they are worth it.

continued on page 4
**E&O Update ... continued from page 3**

- **Pulling the information from various Web sites.** I do not suggest this approach as there is no guarantee that these sites reflect current and accurate information.

- **Using what you think is accurate, with the presumption that the carrier will inspect it and catch your “errors.”** This is not a recommended approach. Every carrier has its own guidelines on what they will inspect and there are very few carriers that inspect every location. In the event of a claim against your agency due to an error in the property limit, a defense used by most E&O carriers would involve bringing the carrier in and stating that they had either inspected the location or had a chance to inspect it, and that they should have advised your agency of a problem. This does have some merit, but a stronger focus on trying to calculate the “right number” upfront is preferred.

**A “Moving Target”**

For business new to your agency, take the time to secure the necessary data to perform the calculation. **This should involve a visit to the location by the producer/agency loss control specialist to help secure the correct information.** Take measurements and ask the necessary questions regarding construction. This will enable you to more accurately determine the Insurance to Value. **DO NOT simply pull up the key input information from the current policy** as this might not be accurate and will probably result in a questionable output due to less-than-quality inputs.

As you can imagine, there have been a significant number of E&O claims dealing with the policy property limits. For example:

The client owned a bowling alley that burned to the ground and claimed the agent procured insufficient limits, resulting in a shortfall of $3 million. The agent stated that the client provided the figures for the building, and further said the client was advised they should consider using an appraisal service. The client said the agent affirmed the coverage amount was the proper coverage. The agent denied this. In that particular state, there is no duty to inform a client how much coverage they should have. The client made the argument that the agent assumed a duty (regarding limits) when he told the client the coverage was sufficient. This was a classic "word vs. word" scenario, with nothing in writing to back-up either side. The damages were also in dispute, as the client was claiming replacement cost value (RCV), even though the vacant lot was for sale. The claim eventually settled for $1 million.

**Lesson to be learned:** Be careful how you respond if the customer asks you if their property limit is sufficient. In the event of an underlying claim where it is resolved that the limits were inadequate, the client will allege they relied on your advice to their detriment.

Calculating the right property amount is somewhat of a "moving target." Secure as much of the correct information as possible. The time you spend up front may just save you time later if you are hit with an E&O claim.

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**Agents Council For Technology (ACT) June Article**

**Consumer Shopping for Auto Insurance Grows Online**

*Independent Agents can benefit if they have active Web presence*

It is important for agents to keep abreast of the latest research about online consumer shopping and purchasing. The 2010 comScore survey (see May 13, 2010 edition of The Massachusetts Agent) contains a number of trends that independent agents can use to design their own Internet strategies and to employ available technology tools to duplicate the speed and convenience that the direct carriers provide, while adding the personal advice and service that they uniquely can offer.

**EDITOR’S NOTE:** Due to space limitations, we are unable to print the complete article by Ron Berg, Senior Technology Research Specialist within the Agency Services & Technology unit of MetLife Auto & Home in Warwick, RI.

We have, however, posted the entire article on our website. To view, download or print Ron’s article, please click [here](#).
FEMA sponsored FLOOD TRAINING Workshop!!
Learn from them before they leave the area!

This is not a “learn how to fill out forms program.” What it is, however, is a program developed around the recent flooding that took place in Massachusetts and the questions, problems and uncertainty that arose from that.

FEMA will explain the program so there is a better understanding of what needs to be done to assist clients and write the appropriate policy. They will also explain how and why the information we offer or require is needed. The FEMA representatives will detail the post-disaster role the agent can play. FEMA is trying to answer the questions that were asked of them while doing their 1400 field contacts to date.

INSURANCE AGENTS TRAINING WORKSHOP
Weave and Weft to Success

Roles in the Flood Insurance Environment
- Critical players in the Program: Communities, Lenders, Surveyors, Adjusters, Agents
  - Lender’s Role:
  - Surveyor’s Role
  - Adjuster’s Role
  - Agent’s Role

Mapping
- Map Product resource through the internet

Other Key Issues
- Insurance vs. disaster coverage
- must be declared to be eligible for disaster benefits
- Limited coverage
- Must register
- Low cost loans possible from SBA

CLASS: 9:00-12:00
CEUs: 3
COST: $45.00 / member $75 / non-member
CLICK the desired location to register online.

June 17 - Lombardo’s, Randolph , MA 244776
June 22 - Wyndham, Andover, MA 244777
June 23 - Beechwood Hotel, Worcester, MA 244778
June 24 - Holiday Inn, Taunton, MA 244779

Cancel fee is $35.00 if not notified within 3 business days of the program