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BULLETIN 98-15

TO: **Licensees, Insurers and Interested Parties**

FROM: **Commissioner Linda Ruthardt**

DATE: **September 28, 1998**

RE: **Year 2000 Coverage and Endorsements**

This Bulletin is intended to advise insurers, insureds and other interested parties about an important issue facing the public - the so-called Year 2000 computer ("Year 2000") issue. Insurers and advisory groups have submitted to the Division numerous filings which contain exclusionary endorsements relative to coverage for Year 2000 matters. As a basic matter, the Division does not want Year 2000 exclusionary endorsements to be used indiscriminately. Neither does the Division wish to have insurers and insureds pay for avoidable claims. Accordingly, the Division encourages the business community to resolve Year 2000 issues quickly and completely and recognizes the public policy concerns of shifting liability to insurance mechanisms.

The Division will closely monitor activities regarding Year 2000 endorsements, including the following actions:

A. Blanket (encompassing more than one line) filings and use for all lines will not be accepted.

B. Personal Lines Coverage (including homeowners' policies with incidental business exposures, personal auto), Commercial Auto and Workers' Compensation: The Division will not allow any exclusionary endorsements for new or renewal coverage for any potential Year 2000 exposures in these areas.

C. Commercial Lines Coverage (including Commercial Property, CGL, Professional Liability, Business Owners and similar packages) (excluding commercial auto and workers' compensation):

   1. Company filings must specify the lines of coverage affected by the exclusion, the specific types of insureds the company is targeting for exclusion and the specific reasons the exclusions are needed.

2. If an insurer is nonrenewing a policy, the nonrenewal must comply with the provisions of Massachusetts General Laws and the notice provisions contained within individual policies:
   a. mailing the nonrenewal notice at least 45 days prior to the expiration date of the policy;
   b. giving a specific written explanation of the reasons for nonrenewal;
   c. sending an exact copy of the above notice and explanation to the named insured at the mailing address shown in the policy or the insured's broker or agent of record;
   d. and every agent or broker receiving such notice and explanation shall, within fifteen days of its receipt, send a copy to the insured or the principal unless such agent or broker has replaced the insurance.

   Failure to comply with applicable requirements will result in an illegal nonrenewal and the company must renew the existing policy. See, inter alia, M.G.L. Chapter 175, secs. 4; 99; 111A; 111B; 113F; 193G; 193P.

3. If an insurer is offering to renew the policy but attaching a Year 2000 exclusionary endorsement, modifying the coverage or increasing the deductible, the company must notify insureds, in writing, of the change in deductible or coverage; clearly explain that Year 2000 coverage is being excluded or modified on the renewal policy; send an exact copy of such notice to the insured's broker, if known, or the agent of record; and keep proof of mailing or proof of receipt of such notice. The Insurance Services Office ("ISO") has submitted into public docket number G98-17 a "sample of policyholder notifications for all Year 2000 filings." The Division hereby adopts the language contained within these notifications as one example of the minimum requirements for such notifications to insureds for modifications in coverage or deductible.

   Failure to comply may result in the company being required to renew the policy for one policy period on the same terms and conditions as the expiring policy. . See, inter alia, M.G.L. Chapter 175, secs. 4; 99; 111A; 111B; 113F; 193G; 193P.

D. General Supervisory Matters:

1. Since the Year 2000 issue also may affect insurance companies directly in their own business functions, the Division has retained the assistance of KPMG Peat Marwick LLP for a risk analysis of domestic insurers' remediation of Year 2000 matters.

2. The Division will also continue to monitor the marketplace relative to Year 2000 matters through complaints and market conduct actions to evaluate whether inappropriate activities are taking place. By means of description but not as a limitation, the Division will closely watch cancellation of policies mid-term due to Year 2000 exposures, non-renewing policies or using Year 2000 endorsements on a blanket basis as opposed to underwriting individual risks, using Year 2000

exclusions to the degree that marketplace disruption is evident or receiving substantiated consumer complaints relative to company abuses on Year 2000-related exclusion activities. The Division will look with disfavor on applying Year 2000 exclusionary endorsements to "named peril" policies (as opposed to "all risk" policies) where the Year 2000 matter is not already identified as such a "named peril."

3. The Division also encourages insurers to promote information-sharing on this important matter with their commercial insureds. As an aid, such information may include Year 2000 compliance checklists, date critical testing criteria and additional sources for Year 2000 information. The Division applauds those insurers that have already fostered such education and strongly urges others to do so shortly.

Please note that the Division will enforce all existing laws and regulations to provide remedial relief to consumers if it determines that inappropriate activities are, in fact, occurring. Any questions about this Bulletin may be directed to Lucinda Woods, Director of Policy Review for the State Rating Bureau at 617-521-7341.