

Premium Finance Board

October 13, 2020

**MINUTES**

At the call of Assistant Attorney General (AAG) Glenn Kaplan, designee of Attorney General Maura Healey, a meeting of the Premium Finance Board, hereby known as the Board, was called to order at 3:00 p.m. through GoToWebinar.

Also present were other board members Mary Gallagher, Commissioner of Banks and Cara Toomey, Counsel to the Commissioner of Insurance at the Division of Insurance (DOI). Cara Toomey is the designee on this Board for the Commissioner of Insurance.

Others present who are staff of the agencies represented on the Board include Heather Bennett, Arwen Thoman, Chloe Williams, and Burt Feinberg.

After the call to order, the next order of business was the opening statements of the Board members. AAG Glenn Kaplan offered a statement, where he welcomed back the board to continue to talk about matters from the previous meeting.

Commissioner Gallagher also offered a statement, where she acknowledged the current environment of the Covid-19 pandemic. She also discussed the guidance the Division of Banks issued on March 16<sup>th</sup>, which included a statement to all licensees, including state-chartered banks and credit unions, to work with customers affected by the Covid-19 pandemic. This guidance also recognized that Covid-19 adversely affected various communities and consequently, advised licensees on payment accommodations. Commissioner Gallagher pointed to DOB guidance regarding how premium finance companies should provide relief and flexibility to customers on back of a DOI Bulletin encouraging flexibility by insurance carriers.

Cara Toomey also made an opening statement, discussing the DOI guidance previously referenced by Commissioner Gallagher.

Discussion of the third agenda item, approval of minutes from the prior meeting, ensued. AAG Kaplan noted that there had been some suggested edits to the initial draft, and that the final draft had now been

circulate. AAG Kaplan roll-called the board members on a vote to approve the minutes. Commissioner Gallagher voted in favor of the motion, as did Cara Toomey and AAG Kaplan.

**VOTED: to approve the prior Premium Finance Board meeting minutes as distributed to the Board members.**

Discussion of the fourth agenda item ensued. This item related to available data regarding rates and types of available insurance premium finance contracts as well as compiling available information discussed in the previous meeting. Commissioner Gallagher noted that broadly, there is not a granular level of data readily presently available to the board. She stated that the Division of Banks does have access to the total dollar amount associated with premium financing as well as the total number of loans as reported by licensees on an annual basis; however, this data is not broken out by coverage line. Interest rates are offered to the Division of Banks as a range, with a maximum of 18%, but there are no insights on how rates are set in the industry. Commissioner Gallagher observed that anecdotally, the financial agreements usually have a down payment and are paid in 9-10 installments over a year. There is not a specific collateralizing security tied to these loans, and the insurance premium contracts are the underlying mechanism for payment. The Division of Banks receives financial statements, but not on the granular level for the intended purposes discussed by the Board. There is also no degree of granularity reported on arrangements with financial institutions. Furthermore, the Division of Banks has no reported indication of the number and percentage of premium finance transactions on which premium finance companies have lost money over the last few years.

Heather Bennett clarified that when institutions submit financial statements to the Division of Banks, this could include a subsidiary, and that the financial information is not broken down according to its type. Ms. Bennett also noted that it would be possible to review other states' interest rates maximums on premium financing as this information should be publicly available.

AAG Kaplan made additional inquiries regarding the data provided to the Division of Banks. Commissioner Gallagher confirmed that the Division of Banks receives the information annually and it is usually available to them at the end of the first quarter of the calendar year. The Division of Banks is provided

with a breakdown of consumer and commercial loans. Also, Commissioner Gallagher found that premium financing for consumers made up 3.5% of the total outstanding loans and 1.5% of total dollars of outstanding loans held by the Division of Banks' licensees in 2019.

Cara Toomey noted that she is still waiting to hear back from the Division of Insurance on some items on which she had inquired. The only touchstone for data available to the Division of Insurance are insurance producers. However, unless the Division of Insurance received a complaint regarding a producer, the Division of Insurance may not have much data available.

AAG Kaplan inquired as to whether insurance producers need to file any data with the DOI. Cara Toomey did not believe so but will confirm at the next meeting.

AAG Kaplan added that the information available to the Attorney General's Office is qualitatively different as the Office receives company specific information through investigations. Much of this information has been obtained through Civil Investigative Demands and is subject to confidentiality restrictions.

Commissioner Gallagher stated that the Division of Banks does have access to annual cancellations, which are broken down into consumer cancellations and commercial cancellations. There are limitations on data sets available to the Board. Commissioner Gallagher also noted that the Division of Banks received 3 consumer complaints in the past year regarding premium financing none of which had to do with the rate, and no complaints since the last premium finance board meeting.

AAG Kaplan said that the Attorney General's Office received expressions of concern and feedback on potential cancellation of premium financed insurance policies during the Covid-19 pandemic. He pointed out that much of the time consumers may not fully understand the role of the premium finance company and may initially complain about their insurance company instead. AAG Kaplan asked that Cara Toomey inquire into the number and type of complaints regarding such cancellations that have been brought to the DOI. He noted that the types of data currently available to the Premium Finance Board appear to be limited. He also inquired whether the cancellation figures provided to the Division of Banks are broken down with more specificity than just whether they are personal or commercial policies.

Commissioner Gallagher replied that cancellations are not broken down by product line. Heather Bennett confirmed this.

AAG Kaplan noted that due to this issue, some policies, such as life insurance, which have a high dollar amount, could distort the data set. He then suggested two possible options for collecting more data. The first option would be to go through individual agencies and try to gather data. The second option would be to gather data as a board from the broader market. AAG Kaplan asked the board members which option would be preferable.

Commissioner Gallagher wanted to balance the need for information with burden on the industry. She suggested that the Board seek voluntary information from stakeholders and explain that the purpose for the request was so that the board could ensure that premium financing rates are fair and non-discriminatory. She suggested soliciting written comments and providing a list of topics of interest to the board. The Commissioner also stated that the board could reach out to industry groups, consumers and/or advocacy groups, as well as individual companies.

AAG Kaplan asked if the board should ask for less information initially and then circle back for more later, or ask for more information up front. He also suggested that the request could ask for specific data while also offering an opportunity for more wide-ranging commentary. Cara Toomey noted that the board may want to request both specific data and more open ended information.

AAG Kaplan raised the idea that the board should draft together such a request. He noted that the board would also need to decide (1) if the request is being drafted for general feedback; (2) the types of information the board are going to need; and (3) the types of protection they are able to provide to consumers who submit comments.

A discussion ensued regarding the types of data, the content of the notice/request, and how and to whom the request should be distributed. Commissioner Gallagher noted that she has contacts for the insurance premium finance companies. She deferred to the Attorney General's Office regarding consumer advocacy

contacts. She also highlighted that if the request is voluntary then it wouldn't be too heavy of a burden for the industry.

AAG Kaplan agreed that the request should be made on a voluntary basis at this time, with the caveat that he is not sure what other options the board has at this time, but did not want to foreclose any of those options. AAG Kaplan noted he knew of some insurance companies with strong views on premium financing. Cara Toomey appreciated the information and said she would inquire further with the Division of Insurance.

Arwen Thoman asked whether someone should take on the task of creating a preliminary draft.

Discussion ensued. Commissioner Gallagher volunteered that she and Heather Bennett could make a draft of the inquiry. Cara Toomey and AAG Kaplan agreed to this proposal, indicating that the board could review the initial draft at the next meeting. AAG Kaplan requested that the draft cover many of the topics listed in the exhibit circulated at the prior meeting.

AAG Kaplan then raised the next agenda item, the impact of the Covid-19 pandemic on premium financing. Discussion ensued, continuing the review of issues relating to loan servicing methods, guidance provided to insurance companies and premium finance companies during the pandemic, and the issue of insurance policy cancellations.

AAG Kaplan then asked for suggestions on a proposed date for the next meeting. Heather Bennett suggested that the board could have a meeting in two to three weeks regarding the draft inquiry that she will put together with Commissioner Gallagher. Cara Toomey and AAG Kaplan agreed to this timeline.

AAG Kaplan motioned to adjourn the meeting, Cara Toomey seconded the motion and Commissioner Gallagher agreed as well.

**VOTED: to adjourn at 3:53 p.m.**