



August 31, 2018

Ms. Jovana Evans  
Safeco Insurance  
U.S. Consumer Markets  
Product Management  
175 Berkeley Street  
Boston, Massachusetts 02116

**Re: Request for No-Action Letter – Safeco Insurance Company of Illinois  
Private Passenger Automobile Insurance**

Dear Ms. Evans:

The above referenced company submitted a request for a no-action letter on March 1, 2018, pursuant to Section 374.018<sup>1</sup>.

Safeco Insurance Company of Illinois ("Safeco") is requesting the Department provide additional relief beyond what has been provided in Bulletin 16-05. More specifically, Safeco is seeking additional relief with regard to provisions 1, 5, 6 and 7 of Bulletin 16-05, until September, 2019. Safeco indicates the additional time is necessary to permit modifications to its IT systems to conform to the requirements specified in Bulletin 16-05. The existing rate stabilization processes are applicable to Safeco's private passenger automobile insurance program.

Safeco is requesting the Department issue a no-action letter, stating it will take no enforcement action under Section 374.046 against Safeco for potentially utilizing rates which might otherwise be deemed excessive, inadequate or unfairly discriminatory in contravention of Section 379.470 RSMo.

**Section 374.018**

The Missouri Department of Insurance, Financial Institutions and Professional Registration ("DIFP") has authority under section 374.018, to issue no-action letters related to the business of insurance in the state. A no-action letter is defined as "a letter that states the intention of the department not to take enforcement actions under section 374.046 with respect to the requesting insurer, based on the specific facts then presented and applicable law, as of the date a no-action letter is issued." 374.018.1.

<sup>1</sup> All references, unless otherwise noted, are to Missouri Revised Statutes 2016, as amended.

An insurer requesting a no-action letter is under an affirmative obligation to make a full, true, and accurate disclosure of all information related to the activities for which the letter is requested, and each request must include complete copies of documents and shall identify all provisions of law applicable to the request. A no-action letter is not considered a statement of general applicability that would require promulgation by rule. The insurer seeking a no-action letter from DIFP has an affirmative obligation to make a full, true, and accurate disclosure of all information related to the request for the no-action letter.

### **Regulatory Background**

Rates for private passenger automobile insurance in Missouri are subject to the provisions of Sections 379.420 to 379.510 RSMo. Under Section 379.470, “rates shall not be excessive, inadequate, as herein defined, nor shall they be unfairly discriminatory.” “Excessive” and “inadequate” have specific definitions prescribed to them within that same section of law. Section 379.470.6 also permits the usage of classifications for the establishment of rates; however, it does state that “such classifications and modifications shall be applicable to the fullest practicable extent to *all risks under the same or substantially the same circumstances or conditions*” (emphasis added).

As the insurance industry has evolved, particularly with regard to merger and acquisition activity and implementation of more advanced rating plans, a need arose for mechanisms to transition rating plan changes as those are applied to Missouri policyholders. These rating plan changes can result from significant modifications to the insurer’s own rating plan or may result from the acquisition of books of business from other insurers. The intent is to avoid creating policyholder abrasion or significant disruption in a book of business as these changes are implemented.

In response to industry requests, the Department issued Bulletin 11-02 on January 7, 2011. This Bulletin provided a regulatory safe harbor for insurers to utilize premium stabilization plans (also called rate capping or transitional rating plans). The regulatory safe harbor was based on a specific set of limited circumstances. Bulletin 11-02 was rescinded on January 12, 2015.

On February 2, 2016, the Department released Bulletin 16-03, a Request for Comment regarding Premium Stabilization. Subsequent to that Request for Comment, the Department held a public hearing again soliciting public comments regarding the use of premium stabilization rules or practices. On September 30, 2016, the Department issued Bulletin 16-05. In Bulletin 16-05, the Department provided a limited duration regulatory safe harbor under a set of specific pre-determined circumstances.

The Department recognizes other situations may arise that fall outside of the safe harbor extended in Bulletin 16-05. Nothing prevents or prohibits an insurer from seeking a no-action letter based upon circumstances which deviate from the pre-determined circumstances which form the basis of the regulatory safe harbor in Bulletin 16-05.

### **Discussion and Conclusion**

Under Missouri insurance law, insurers are prohibited from charging rates that are excessive, inadequate or unfairly discriminatory. Consumers have a reasonable expectation they will be charged the same rate as other similarly situated insureds. Consumers also have a reasonable expectation the Department is monitoring insurance companies to ensure they are not being charged excessive, inadequate or unfairly discriminatory rates. At the same time, the Department recognizes significant changes in the market or rating plans can create significant rate disruptions which can result in negative impacts on policyholders.

With the issuance of Bulletin 16-05, the Department addressed those limited situations or circumstances that may warrant the use of transitional rating plans - balancing the competing public policy interests expressed in Missouri law of ensuring the financial solvency of insurance companies and protecting consumers from rates that are excessive, inadequate and unfairly discriminatory. In striking this balance, the Department was careful to limit the use of rate stabilization rules in terms of both the scope of circumstances and duration.

Safeco provided significant proprietary and trade secret information to the Department to evaluate in support of its no-action letter request. The Department carefully analyzed this information. Safeco indicated it had used rate stabilization practices long before the issuance of Bulletin 16-05 and periodically modified its rate stabilization practices. The safe harbor provided in Bulletin 16-05 allowed insurers to use rate stability rules within certain limited time periods but did not include the ability for insurers to continuously extend previously filed premium transition rules by submitting new filings. As a part of the regulatory safe harbor extended in Bulletin 16-05, insurers are expected to provide certain information to the Department and to impacted consumers. The company has indicated systems limitations currently do not allow them to provide this additional level of detail.

The original rate stabilization and transition plans filed by Safeco did not contemplate the provisions addressed in the Department's Bulletin 16-05. Safeco implemented both previous and currently in-force rate stabilization practices without knowing Bulletin 16-05 would be issued. Safeco has indicated and assured the Department it does intend to make modifications to its systems which will allow it to conform all future rate stabilization processes in order to take

advantage of the regulatory safe harbor provided in Bulletin 16-05. In fact, Safeco indicates they will be able to complete modifications to its system by September 30, 2019. At that time, Safeco has assured the Department its rate stabilization practice will conform to the provisions of Bulletin 16-05, including both the duration and scope of rate stabilization practices. This modification will also provide consumers additional transparency into what may be impacting their rates.

Therefore, for the reasons cited above, and based upon Safeco's commitment to modify its systems, the Department affirms through the issuance of this no-action letter that it will not bring an enforcement action under Section 374.046 against Safeco based on rate stabilization practices in use through September 30, 2019. The Department further affirms through the issuance of this no-action letter that Safeco will be permitted to fully implement IT programming revisions, to be completed no later than September 30, 2019. This no-action letter does incorporate by reference the rate filing and rate stabilization rules as contemplated in Safeco's private passenger automobile insurance product submission originally filed with the Department on July 7, 2017 and identified by SERFF Tracking Number LBPM-131049135.

This no-action letter and enforcement relief granted herein reflect the interpretation and position of the DIFP based solely upon the facts as presented by Safeco in its letter of March 1, 2018 and through subsequent correspondence with the Department.

The relief issued by this letter does not excuse any other persons or insurers from compliance with any applicable Missouri laws. This letter does not create or confer any rights or obligations on the Department or other insurers subject to the provisions of section 379.318. As with all no action letters, the relief offered in this no-action letter shall remain in effect as long as there is no change in material fact or law or the discovery of a material misrepresentation or omission made by Safeco concerning the specific actions that are the subject of this letter. The determination of materiality shall be in the sole discretion of the Director.

Sincerely,



Chlora Lindley-Myers

CLM:aln