

OPERATING PROCEDURE FOR THE INTERMEDIATE REVIEW OF THE APPLICATION OF UNIFORM STANDARDS OR OPERATING PROCEDURES DURING THE REVIEW OF A PRODUCT FILING SUBMISSION

§101. Purpose and Scope.

In accordance with Article X, Section 2 and Article XI, Section 2 of the model Interstate Insurance Product Regulation Compact (“Compact”) as enacted into law by each state, the following establishes: (1) the structure for intermediate reviews within the Compact product filing process, and (2) procedures for filers to request review of the Compact Office application of the Uniform Standards or Operating Procedures during the review of a product filing submission. The purpose is to promote fairness, efficiency, and transparency in decision-making by allowing a member body to address important issues of interpretation before final disposition of a product filing.

§102. Definitions.

- (a) “Intermediate Review” means a process available to a filer to seek review by an appointed body of the Management Committee, during the review of a product filing submission, of the Compact Office application of Uniform Standards or Operating Procedures. Intermediate Review is not considered an adjudication for purposes of the *Operating Procedure for Notice and Hearing*.
- (b) “Request for Intermediate Review (RIR)” means a written request by a filer during the Compact Office review of a product filing submission to seek intermediate review.
- (c) “Requestor” is the filer that submits the RIR.
- (d) “Member Review Board” means the group of Commissioners appointed by the Management Committee to consider and adjudicate the Request for Intermediate Review.
- (e) “Completed Record” means the point of time that all requests for information from the Compact Office and the Requestor have been satisfied and the RIR Fee has been paid.
- (f) “Member Review Board Report” means the written report of the Member Review Board on its findings and conclusions with respect to the interpretation(s) of the Uniform Standard(s) or Operating Procedure(s) at issue.
- (g) Except as specifically defined herein, the terms defined in Article II of the Compact shall have the same meaning in this Rule as if such definitions were fully set forth herein. The term “trade secret” shall have the meaning provided in the *Establishment of Conditions and Procedures for Public Inspection and Copying of Information and Official Records of the Interstate Insurance Product Regulation Commission*, as such rule may be amended from time to time.

§103. Intermediate Review Process.

- (a) The Compact Office will make reasonable efforts to understand, document, and resolve issues when a filer requests review of the Compact Office application of the Uniform Standards or Operating Procedures during the review of a product filing submission, including consultation with the Executive Director.
- (b) During the review of a product filing submission, a filer may submit a Request for Intermediate Review to the attention of the Executive Director. The RIR shall contain a(n):
 - (1) Concise statement of the issue(s) for review;
 - (2) Complete copy of the product filing and all correspondence with the Compact Office, including pre-filing communication and correspondence with the Compact Office outside of the SERFF system, if any;
 - (3) Copy of the relevant Uniform Standards and Operating Procedures;
 - (4) Statement of Requestor's position and analysis to support the position;
 - (5) Identification of relevant portions of the product filing, correspondence, Uniform Standards, and/or Operating Procedures.
 - (6) Request to put the product filing submission in "Agreed Written Extension" status, which means further review is on hold and the filing is pending outcome of the RIR.
- (c) Requests for Intermediate Review can be transmitted electronically to the Executive Director at any time. Within ten (10) business days of receipt of the RIR, the Executive Director will submit to the Member Review Board the RIR and the Compact Office response which shall contain:
 - (1) Applicable Uniform Standard(s) or Operating Procedure(s) and relevant rulemaking history;
 - (2) Identification of product filings, checklists, filing information notices or other communication from the Compact Office where the interpretation at issue has been applied;
 - (3) Compact Office analysis to support its position.
- (d) The Member Review Board will meet once a month to recommend or decline Intermediate Review Requests submitted to it in the previous 30 calendar days.
 - (1) If the Member Review Board declines Intermediate Review, the Compact Office review of the product filing submission shall recommence and the Requestor retains any right to appeal, upon disposition, in accordance with the *Operating Procedure for Notice and Hearing*.
 - (2) Decisions of the Member Review Board to recommend or decline Intermediate Review are discretionary, final, and do not create a right to appeal.
- (e) If the Member Review Board recommends Intermediate Review, the Requestor shall pay the applicable RIR Fee posted on the Compact Filing Fee Schedule in accordance with the

Interstate Insurance Product Regulation Commission (IIPRC) Terms and Procedures for IIPRC Filing Fees.

- (f) Upon recommending Intermediate Review, the Member Review Board may issue written questions to or request additional supporting documents from the Requestor and/or the Compact Office, with responses due in writing within five (5) business days.
- (g) The Member Review Board may hold one or more conference calls of its members. A written summary of each call will be prepared and company-specific or trade secret information will be redacted.
- (h) When all filings create a Completed Record, as determined by the Member Review Board, the Member Review Report (“Report”) will be issued within thirty (30) calendar days.
- (i) The Report shall contain the following information, at a minimum:
 - (1) Statement of the issue(s);
 - (2) Analysis of the issue(s);
 - (3) Statement of its findings and conclusions with respect to the interpretation of the Uniform Standard(s) and/or Operating Procedure(s).
- (j) The Requestor and Compact Office shall have ten (10) business days to review the Report and submit a written request for changes or clarifications. In the absence of exigent or extraordinary circumstances as permitted by the Member Review Board, no person may present information not in the Completed Record to support its reconsideration request.
- (k) The Report, subject to redaction for company specific and trade secret information, will be distributed to the members and designated representatives of the Commission, members of the Legislative Committee and Consumer and Industry Advisory Committees.
- (l) Written comments on the Report are due to the Member Review Board within forty-five (45) calendar days of its notice unless a longer time is specified. The Member Review Board will consider the comments, including whether to update the Report, within thirty (30) calendar days after the written comment deadline.
- (m) Once the Report is final, it will be posted on the Compact website.
- (n) The Requestor retains its rights to seek adjudication with respect to a disapproved product filing or advertisement, or with respect to the withdrawal or modification of a previously approved filing, in accordance with the *Operating Procedure for Notice and Hearing*.

(o) The Requestor may withdraw its request for Intermediate Review at any procedural step prior to the issuance of the Report under §103 (m). The Member Review Board shall promptly approve withdrawal requests. All information regarding a withdrawn request for Intermediate Review, including the unredacted version of the Report, shall be the confidential work product of the Commission and may not be publicly disclosed unless ordered otherwise by a majority vote of the Commission or by a court that has jurisdiction over the Commission. If the request to withdraw is made after the Member Review Board has issued the Report but before the Report is final under §103 (m), the Member Review Board retains the discretion to refer the Report, subject to redaction for company specific and trade secret information, to the Management Committee in view of the possibility of rulemaking or other action as may be applicable.

§104. Member Review Board Composition and Requirements.

- (a) The Compact Office will provide staff and administrative support to the Member Review Board.
- (b) The Management Committee will appoint members to the Member Review Board either through the annual committee assignment process or on a case-by-case basis.
- (c) Commissioners will serve on the Member Review Board, which shall consist of an odd number of states, not to exceed five states. Board members may seek assistance from their own state staff in carrying out the Intermediate Review process.
- (d) The Member Review Board will include at least one Compact Officer and one other member of the Management Committee and to the extent possible, representation from different zones.
- (e) The Member Review Board shall refrain from communications with the Requestor or the Compact Office regarding the product filing submission at issue outside of the parameters of the Intermediate Review process.
- (f) The Member Review Board, and their staff, shall refrain from discussing the matter that is the subject of the Intermediate Review with members or other parties not on the Member Review Board or part of the Intermediate Review process.
- (g) Upon issuing a Report, Member Review Board members will be considered disqualified from considering an adjudication (i.e., appeal), if any, on the product filing submission at issue in the Intermediate Review.

§105. Implementation of Member Review Report.

- (a) The Compact Office will distribute or make available the Report, when final and subject to redaction of company specific information and trade secrets, to its registered filers.
- (b) If the Report impacts the Compact Office application of the Uniform Standards or Operating Procedures in previously approved filings, the Compact Office will issue a Filing Information Notice to explain the process for filers in updating their products and whether such updates are optional or required.
- (c) If the Report includes a recommendation to amend an existing Uniform Standard or Operating Procedure, the Compact Office will transmit the Report to the Product Standards Committee or Rulemaking Committee for consideration regarding applicable rulemaking.