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Connecticut Insurance Department Tightens Oversight on Market Exits

On September 19, the Connecticut Insurance Department issued a new bulletin, PC 34-23, rescinding and revising Bulletin PC-34 in a manner that suggests the Department will scrutinize market-impacting activities more closely. Bulletin PC 34-23 addresses notices to the Commissioner under Connecticut General Statutes Section 38a-44, governing notice of intent to discontinue or substantially reduce a line or subline of business. The new notice telegraphs an intent by the Department to keep a closer eye on property and casualty market exits and reductions, regardless of insurer intent behind the same.

Section 38a-44 requires insurers to notify the Department when an insurer intends to exit the market or substantially reduce its writings on the market. Historically, insurers interpreted this requirement as requiring notice when an insurer makes the business decision to leave, or partially leave, the market. Through PC-34-23, the Department has set forth its view that, even if an insurer's conduct is not motivated by an express intention to leave or partially leave a market, an insurer must nonetheless provide notice pursuant to Section 38a-44 when an insurer plans on taking actions which it expects would result in the discontinuation or substantial reduction in a line or subline of business. Specifically, the Department has clarified that the "notice requirement applies to the use of agency-facing applications and other technology, processes (e.g., referrals to underwriters) or communications to producers, which effectively results in the discontinuation or substantial reduction in a line or subline of business." It has further advised that if an insurer is uncertain as to whether an action is subject to Section 38a-44, "it is best to assume it [is] and discuss the particular facts with the Property/Casualty Division." This requirement applies regardless of other policy considerations, such as whether the reduction will disrupt the market and whether the action may be necessary to prevent a solvency problem. PC-34-23 further telegraphs the Department's intent to conduct an examination and take action if it suspects insurer practices are resulting in a pattern of rejections (and effectively a reduction in business) that may constitute unfair trade practices or other statutory violations.

To comply with PC-34-23, insurers need to assess how any planned changes to their practices and procedures might impact their Connecticut writings, regardless of the intent behind such changes. Insurers should also consider documenting that assessment in the event of later Department scrutiny. Insurers also must continue to comply with renewal obligations under Connecticut General Statutes Section 38a-709. That section requires an insurer to renew all contracts of insurance affected by the termination of any producer appointment in conjunction with a discontinuation or substantial reduction in business for a period of 18 months from the date that such termination takes effect. Insurers should also keep an eye out for any inadvertent errors or changes in underwriting that have an unexpected impact so they can proactively address issues before the Department seeks involvement.

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