On January 1, 1994, pursuant to section 627.311(5)(a), Florida Statutes, the FWCJUA began providing workers' compensation and employer's liability insurance to applicants who are required by law to maintain workers' compensation and employer's liability insurance and who are in good faith entitled to but who are unable to procure such insurance through the voluntary market. In addition, section 627.311(5)(h), Florida Statutes, states that any premium or assessments collected by the plan in excess of the amount necessary to fund projected ultimate incurred losses and expenses of the plan and not paid to insureds of the plan in conjunction with loss prevention or dividend programs shall be retained by the plan for future use. Any state funds received by the plan in excess of the amount necessary to fund deficits in subplan D or any tier shall be returned to the state.

In mid-2007, as a result of the December 31, 2006 surplus position, the FWCJUA Board of Governors agreed to consider a policyholder dividend program.

Policyholder Dividend Philosophy

In determining the amount of a policyholder dividend, a policy year profit and loss analysis shall be completed. The actual amount of underwriting gain and/or loss, including income taxes, if any, shall be the starting point in determining any policyholder dividend for a given policy year to include its distribution between the individual rating tiers based upon each rating tier's underwriting results. The volatility of all policy year results shall also be considered when determining if a portion of the underwriting gain, up to 10% of the policy year's direct written premium, shall be retained in any given policy year. The individual policy year specifics that shall be taken into consideration in determining a reasonable underwriting gain include such items as the total number of claims reported, the total number of open claims at the time of dividend declaration, any catastrophic or serious injuries within that policy year as well as other factors such as the policy year's premium volume, total number of policies written, change in premium volume, changes in rates, and changes to the mix of policyholders. Each policy year shall be reviewed upon its own merits with due consideration being given to the overall profitability of all policy years. If the policy year result is deemed to have a positive underwriting gain after this review, each individual rating tier shall then be considered on its own merit. Once the Board of Governors determines whether to retain a portion of the underwriting gain, any additional underwriting gain may be distributed as a policyholder dividend on a per policy basis.

All investment income earned on premium payments collected by the FWCJUA shall be retained for future use. Monies retained for future use should reasonably ensure that there shall be sufficient funds to pay any unexpected losses unknown at the time of a dividend declaration or utilized to offset any underwriting losses developed in prior or future policy years to minimize the possibility of an assessment. It shall also provide the FWCJUA with additional options related to reinsurance attachment points, contingency and surplus factors as well as an offset to general and administrative expenses utilized in rate making.

Policy years eligible to be considered for a policyholder dividend: A determination as to whether a policyholder dividend shall be made and for what amount shall be made once a policy year has been closed for 5 calendar years. For example: the 2001 Policy year is completely closed at the end of the

2002 calendar year + 5 calendar years would result in the 2001 Policy year to be eligible for dividend consideration after the 2007 annual statement and audit are complete.

Policy Years 1994 – 1999: These policy years are not eligible for policyholder dividends as an LPT Reinsurance Agreement was purchased removing the possibilities of sufficient gain or loss. The LPT Reinsurance Agreement essentially closed these years to both a policyholder dividend as well as a policyholder assessment

Minimum Premium Policies: Minimum Premium policies would not be eligible for any policyholder dividends as these policies were charged the absolute minimum premium amount for a policy that assumed limited exposure and thus, the minimum premium charged was not sufficient to generate underwriting results sufficient to warrant a policyholder dividend. Therefore, any positive development or underwriting gain experienced within the policy year shall not be attributed to the minimum premium policies.

Policies with No Final Audit: Any policy for the year under consideration for a policyholder dividend where the final audit was not completed because the policyholder did not comply with the FWCJUA's final audit requirements shall not be eligible for any policyholder dividend amount.

Polices with Unpaid Assessments: Any policy for the year under consideration for a policyholder dividend where the policyholder did not pay an FWCJUA policyholder assessment shall not be eligible for any policyholder dividend amount.

Policies with Uncollected Premium: Any policy for the year under consideration for a policyholder dividend where the policyholder did not pay 100% of its earned premium, excluding any collection fees and penalties, within 12 months from policy expiration or cancellation shall not be eligible for any policyholder dividend amount. If the policyholder entered into a settlement agreement for less than 100% of the earned premium, less collection fees and penalties, and paid said earned premium, the policyholder shall not be eligible for any policyholder dividend amount given there remains an outstanding uncollected premium to the FWCJUA. Further, any outstanding collection fees and penalties on any policy for the year under consideration for a policyholder dividend shall be deducted from any eligible policyholder's dividend amount.

Policyholder Dividend Calculation Methodology:

Once a dividend has been declared by the Board of Governors, a number of calculations must be completed to determine which policies in that policy year are eligible to receive a policyholder dividend payment.

First, each individual rating tier's policy year combined ratio (excluding investment income and expenses) shall be calculated. The individual rating tier's policy year combined ratio shall essentially become the "standard" by which all that rating tier's policies within the policy year shall be reviewed for purposes of determining eligibility for a dividend payment. If an individual policy's combined ratio is equal to or less than its rating tier's "standard" policy year combined ratio, then it shall qualify and receive a declared policy year policyholder dividend payment based upon its proportionate share of its assigned rating tier's positive underwriting results. The combined ratio is the sum of the reinsurance premium expense ratio plus the administrative expense ratio plus the selected dividend loss & ALAE ratio.

Utilizing the individual rating tier data from the particular policy year for which the Board has declared a policyholder dividend, the three components of each rating tier's total policy year expense ratio are calculated as described below:

1) The reinsurance premium expense ratio is equal to the total reinsurance premium allocated to the policy year divided by the total earned premium for that policy year.

2) The administrative expense ratio is the sum of the average servicing carrier fees (SCF) paid ratio plus the average producer fees paid ratio plus the general & administrative (G&A) expense ratio. Both the servicing carrier fees paid ratio and the producer fees paid ratio are developed by utilizing the *J11 premium record* information from the FLARE database. The SCF paid ratio is the total of all SCF paid for all policies in that policy year divided by the total earned premiums for that policy year. The producer fees paid ratio is the total of all producer fees paid for all policies in that policy year divided by the total earned premiums for that policy year. The G&A expense ratio is the total general and administrative (G&A) expenses for that corresponding calendar year divided by the total earned premiums for that policy year

3) The selected dividend loss & ALAE ratio shall be determined by selecting the highest of the following three loss ratios: a) cumulative FWCJUA net loss & ALAE ratio (for all years excluding Subplan D data); b) the cumulative individual policy year loss & ALAE ratio (excluding Subplan D data); or c) the rating tier's cumulative net loss & ALAE ratio. These ratios shall be obtained from the *Ultimate Loss Summary* reports prepared by the FWCJUA as a detailed work paper for the Statutory Annual Statements filed with the Office of Insurance Regulation.

Once the "standard" policy year combined ratio for each tier has been determined, a review of the individual policies in that particular policy year shall be completed by rating tier. Below is the individual policy analysis that shall be conducted to determine if a policy shall qualify and receive a share of the declared policyholder dividend based upon its proportionate share of the sum of the positive underwriting results for all qualified policies in its assigned rating tier.

<u>Individual Policy Analysis</u>:

Step 1: Determine if the policy is eligible. The policy is ineligible and is no longer considered in the analysis if the policy:

a. is a minimum premium policy, or
b. has no completed final audit, or
c. has an unpaid assessment, or
d. has an uncollected premium 12 months after policy expiration or cancellation.

Step 2: Calculate the individual policy's combined ratio within its rating tier. This would be the sum of the administrative expense ratio for the policy year + reinsurance premium expense ratio for the policy year + the individual policy's loss & ALAE ratio (sum of all loss & ALAE incurred / total earned premium for the policy).

Step 3: Determine if the policy qualifies. Compare the individual policy's combined ratio to the "standard" policy year combined ratio for its assigned rating tier. If the individual policy's combined ratio is equal to or less than the "standard" policy year combined ratio for its assigned rating tier, then the policy qualifies and shall receive a policyholder dividend payment.

Step 4: Complete combined ratio analyses by rating tiers on all eligible policies. Sum the total of the positive underwriting results for all of the qualified policies within each rating tier, as this is the amount used as the denominator in the proportionate share calculation of the actual policyholder dividend payment by rating tier.

Step 5: Next, determine the actual individual policy dividend payment amount based upon its proportionate share of its assigned rating tier's positive underwriting results. Each qualified policy's positive underwriting results would be divided by the total positive underwriting results for that policy's rating tier as shown in the following formula.

$$\frac{\text{Individual Policy Positive Underwriting Results}}{\text{Total Positive Tier Underwriting Results}} \times \text{Policyholder Dividend Declared} = \text{Policy's Proportionate Share by Tier of the Dividend}$$

Step 6: Before actual payment, it shall be necessary to implement a further verification process to ensure that the policyholder does not have any uncollected premium, unpaid assessments, outstanding collection fees, outstanding penalties or outstanding final audits in any other policy year with the FWCJUA. If any uncollected premium, unpaid assessments, outstanding collection fees, or outstanding penalties are found for any other policy years, then the policy's proportionate share of the dividend would first be applied to these outstanding obligations/liabilities for that policyholder. If there is any positive dividend amount remaining, the positive balance shall be distributed to the policyholder. If the policyholder has any outstanding final audits for any other policy year; the dividend shall be withheld until all outstanding final audits are completed; however, the policyholder shall forever forfeit the dividend if all outstanding final audits are not fully resolved within 12 months from notification of the dividend.

Step 7: All policyholder dividend payments shall be sent via check to the most recent address on file for the policyholder. Payments shall not be made for any amounts less than $1.00.

Approved by the Board of Governors on December 9, 2008
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