Informational Bulletin:

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF SELF INSURANCE PLANS

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Department of Industrial Relations
STATE OF CALIFORNIA

Notice to Actuaries Submitting Actuarial Summaries and Studies for Private Self-Insured Employers

Under 8 Cal. Code Regs. Section 15209(a), actuarial studies and summaries are due to OSIP from active and former private self-insurers no later than May 1, 2017. Under the electronic filing platform, copies of these summaries and studies are simultaneously transmitted to the Self-Insurers' Security Fund. These required summaries and studies are expressly relied upon by OSIP and the Self-Insurers' Security Fund to determine collateral requirements and assessments.

Pursuant to 8 Cal. Code Regs. Section 15209(e), "[t]he actuary shall declare in the study and the summary that the study and report may be used by the State of California and the Self-Insurers' Security Fund to set appropriate collateral and deposit amounts, and for any other regulatory purpose under these regulations." Further, "[t]he actuarial study and summary shall specify that it is prepared for use by the Department of Industrial Relations, Office of Self Insurance Plans and the Self Insurers' Security Fund. The Office of Self Insurance Plans and the Self Insurers' Security Fund may share the study and report with consultants retained by the Department of Industrial Relations or the Self Insurers' Security Fund for official purposes in accomplishing the purposes of these regulations." 8 Cal. Code Regs. Section 15209(f).

Actuarial reports and summaries submitted under these regulations must contain this required language, and MUST NOT contain other disclaimers or disclosures that are contradictory or inconsistent with this required language. For example, standard actuarial disclaimers prohibiting all third party distribution, stating that the reports cannot be relied upon by third parties other than the client, or declaring that nothing in the report may create a legal duty to any third party recipient, will not be allowed and may cause the summary and study to be rejected by OSIP. Such disclaimers are permissible only if OSIP and the Self-Insurers' Security Fund are expressly excluded from them.

Under 8 CCR section 15209, actuaries must provide both a study and a summary containing an actuarial central estimate. Per the regulations, "[t]he actuarial central estimate shall be reported at both the gross and net amounts of excess insurance values." Where there is excess insurance, "(d) The actuarial study and summary shall clearly identify any excess coverage by carrier, policy year and self-insured retentions, by year."

Please note that while self-insurers may maintain specific excess workers' compensation coverage and/or aggregate stop loss insurance, only specific excess workers' insurance may be credited toward their security deposit requirement. Aggregate stop loss policies, risk transfer agreements not approved by the DIR, and similar arrangements cannot be used to reduce actuarial central estimate. In the actuarial central estimate, only specific excess workers compensation may be used to reduce gross liabilities to net liabilities.

It is important that all actuaries understand the type of policies held by the self-insurer.

All actuarial reports submitted to OSIP go through an extensive review process. In the event an actuarial study and summary is rejected, OSIP may require a second study and summary that does conform with the regulatory requirements be prepared and submitted by another qualified actuary at the self-insurers' expense. 8 Cal. Code Regs. Section 15209(i). Unless a corrected conforming study and summary is timely submitted, the self-insurer may be subject to adverse regulatory action, including but not limited to revocation of its Certificate of Consent to Self-Insure and/or imposition of a higher assigned collateral requirement in the discretion of OSIP. Additionally, the Self-Insurers' Security Fund may downgrade or exclude the self-insurer from participation in the Alternative Security Program ("ASP") and/or assess additional fees based on a higher collateral requirement.