



# COMMISSIONER OF SECURITIES AND INSURANCE

Troy Downing  
Commissioner

Office of the  
Montana State Auditor

September 20, 2024

Holly O'Dell, President/CEO  
Montana State Fund  
855 Front Street  
P.O. Box 4759  
Helena, MT 59604-4759

RE: Approval of the Montana State Fund's (MSF) Application for Regulatory Sandbox/Innovation Waiver.

Dear Ms. O'Dell,

The Legislature recently passed regulatory sandbox or innovation waiver legislation (HB 836), which authorizes the Commissioner of Securities and Insurance (CSI) to grant waivers of certain requirements of the Montana Insurance Code applicable to property and casualty insurers. Section 33-2-2501, MCA (effective October 1, 2023). Rules implementing this legislation have been adopted and CSI has also posted the required application on its website.<sup>1</sup>

The Montana State Fund (MSF) has applied for waiver of certain regulatory requirements to facilitate implementation of a program under which the MSF would grant premium waivers of up to \$10,000 for employers undergoing premium audit for the first time (Amended Application, attached as Exhibit 1.). Based on the application, this premium waiver program (program) initially focuses on premium increases resulting from noncompliance with Independent Contractor Exemption Certificate (ICEC)/ownership issues, e.g., a policyholder hiring an uninsured subcontractor without an ICEC. The program and associated audits will be applied uniformly and in a

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<sup>1</sup> ARM 6.6.9001 et seq.; [https://csimt.gov/wp-content/uploads/2024/09/2024-07-19-Montana-Regulatory-Sandbox-Waiver-Application.pdf?\\_rt=MXwxfHNhbmRib3h8MTcyNjUxNTQ5OQ&\\_rt\\_nonce=90c560b50e](https://csimt.gov/wp-content/uploads/2024/09/2024-07-19-Montana-Regulatory-Sandbox-Waiver-Application.pdf?_rt=MXwxfHNhbmRib3h8MTcyNjUxNTQ5OQ&_rt_nonce=90c560b50e)

nondiscriminatory manner. Under the program, waivers of increased premium will be combined with education and training of employers. The program is designed to prevent or limit the premium shock that sometimes occurs following premium audits. The program also seeks to increase efficiency by encouraging better management by employers of their workers' compensation obligations.

MSF's application requests waiver of §§ 33-18-210, -212, MCA (prohibiting rebating/illegal dealing in premiums) and § 33-18-6-1023, under which the Commissioner has designated the National Council on Compensation Insurance (NCCI) as Montana's workers' compensation advisory organization, and the application of certain rules set forth in NCCI's Basic Manual and other NCCI publications. *See also* ARM 6.6.8301.

The application demonstrates to the satisfaction of the Commissioner that these regulatory requirements would prevent implementation of this innovative and more efficient product or service. MSF's application satisfies the statutory criteria upon which the Commissioner may grant an innovation waiver and I have determined that the requested waiver is in the public interest.

Accordingly, MSF's application for an innovation waiver is APPROVED, subject to the following conditions:

1. According to § 33-2-2501, MCA, the program will not be utilized by more than 10,000 policyholders;
2. MSF shall provide eligible policyholders subject to first-time premium audits with the written notice required by § 33-2-2501(5), MCA;
3. The program will commence on January 1, 2025, and the waiver is approved for an initial period of 3 years from that date, after which, unless extended by the Commissioner, all program activities must cease;
4. On March 1, of each year of operation, commencing on March 1, 2026, MSF will provide CSI with a written report of:
  - a) the number of policyholders who received the premium waiver in the prior calendar year,
  - b) the total premium waived in the prior calendar year; and,
  - c) the planned individual and aggregate waiver maximums for the reporting or current calendar year.

5. This waiver does not limit or affect Commissioner authority to exercise discretion to enforce any other requirements of the Montana Insurance Code or Rules implementing the Code; and

6. According to § 33-2-2501(10)(a), MCA, and ARM 6.6.9003, the Commissioner may revoke this waiver if the program is not operated as described in the application (Ex. 1); if any terms, conditions, or limitations of this waiver or the requirements of § 33-2-2501 are not satisfied; or if the Commissioner determines that the waiver is harming consumers or causing material harm to MSF's solvency.

Sincerely,



Troy Downing  
Commissioner of Securities and Insurance,  
Montana State Auditor