Lowell D. Fuller, ARM
Administrator

Oregon O S I F

OPERATORS SELF-INSURERS FUND

Exhibit "2"

Memo

Date: **October 27th 2016**
To: **Fred Bruyns, DCBS**
From: **Lowell Fuller, OROSIF Administrator**
Subject: **Written comments to proposed Rule OAR 436-050-0260**

OROSIF appreciates the opportunity to submit written testimony regarding proposed Rule OAR 436-050-0260.

Background: OROSIF is a group self-insurers fund established April 1, 1995 specific to McDonald's Owner Operators (franchisees) restaurant operations. There are currently 43 members who coop many business expenses such as advertising, supply distribution, food and supply purchasing. Establishing OROSIF and "sharing" in the WC risk is a natural relationship which fits into the McDonald's community business model. OROSIF was formed with the same intention as other McDonald's coop ventures, to provide the product or service, in this case Workers' Compensation, in the most cost efficient manner. For the Fund the mandate includes returning to members as dividend any and all excess monies after total claim liability has been met. The purpose and intent of OROSIF is to provide workers' compensation coverage to its members substantially at cost while meeting all obligations to claimants under the Oregon work comp statutes. The purpose of the Fund is not to build excess profit & surplus.

Financial Statement History: One approach the Fund's board of directors has taken since day one is to minimize tax liability. Consequently at the conclusion of each operating year the board declares all earnings as payable to policyholders. This removes the tax liability on generated earnings or surplus. This strategy has been tested and accepted by the IRS. The financial statement impact is no Policy Holder Surplus is generated but all the excess profits are classified as Member Distribution Payable.

Proposed Rules Changes Will Negatively Impact OROSIF: The proposed rules changes do not recognize the advantageous tax strategy engaged by the reclassification of surplus as outlined and would cause OROSIF to score a minimum"0" instead of the current maximum of "6" on the Premium to Surplus Ratio Scale. To put into perspective we estimate OROSIF has saved approximately $1.1 million in tax for its 43+/- members through this financial statement and tax strategy. This accounting methodology also reconciles with GAAP accounting which requires an accrual of the estimated excess amounts to ultimately be paid as dividends.

To summarize:
1- It is the intent of the Board to ultimately return all excess funds (surplus) to the members. Nothing else will be done with it.
2- A declaration confirming the above of this intent is made annually at the yearend board meeting.
3- This treatment of earnings (surplus) postures OROSIF for a favorable tax position used by many (approximately 75+) similar funds across the country.

A Fund Administered by Arthur J. Gallagher Risk Management Services, Inc.
4350 West Cypress Street, Suite 300, Tampa, Florida 33607
Phone 1-800-869-8402 Fax (727) 791-1613

4. Declaration to pay all surplus as policy holder dividend payable reclassifies OROSIF's surplus from adjusted net worth or policy holder surplus to a balance sheet liability as member distribution payable. The tax differential is approximately 35% savings against surplus.
5. Member Dividend Distribution Payable remain in the possession of the Fund and is fluid. In other words it is not paid to members but held and available to be reclaimed or reclassified as needed. This means that this balance sheet line item titled member distribution payable can and is utilized for adverse loss development, bad debts, investments losses, or assessments etc. It should be recognized as a held liquid resource to meet obligations.

Suggested Solution: I suggest adding "member distribution payable" and "plus member distribution payable" to 1) (E) (ii) to clarify the inclusion of this member money held by the Fund and not yet distributed which is available for use to pay claims. See below red inserts to applicable paragraph.

Proposed Rules OAR: 436-050, Employer/Insurer Coverage Responsibility
1) Financial strength analysis

(E) **Adjusted net worth** is the net worth reported in the financial statement of the self-insured employer group less disallowed assets;
(i) Disallowed assets are prepaid expenses, inventory, and accounts receivable over 90 days old; and
(ii) Financial statements and reports may otherwise refer to adjusted net worth as member distribution payable, net position, net assets, surplus, owner's equity, or shareholders' equity. The adjusted net worth is the total assets minus the sum of the total liabilities and the disallowed assets plus member distribution payable.

Permitting the adjustment to the proposed rules, either as suggested or in another form, to recognize member distribution payable as a viable measurement of the Fund and member's assets will more accurately illustrate the financial strength of OROSIF.

Thank You

CC: OROSIF Board of Directors
Ben Johnson, AJG
Larry Shores, Shores CPA
Adam Breitenstein, DCBS
Christopher Clark, DCBS
Angie Sousa, DCBS