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June 21, 2019

**BULLETIN NO. 1081**

**PROPOSED CHANGES TO THE RULES OF OPERATION**

At its meeting of June 19, 2019, the Governing Committee voted to amend the following Rule of Operation by deleting and adding the language as indicated on the attached copy. A copy of the Filing Letter, which contains an explanation of the Rule changes, is attached for your information. The impacted Rule is listed below.

Rule 2 – Definitions

This Bulletin, with a copy of the proposed changes to the Rule listed above, is being furnished to every Member Company, each association of insurance Producers, and the Public Protection Division of the Office of the Attorney General as required in Article X of the Plan of Operation. Any Member Company, association of insurance producers, or the Attorney General may request a public hearing within five days of receipt of this Bulletin and Filing Letter, as provided by Article X of the Plan of Operation.

A proposed Rule shall become effective upon the written approval of the Commissioner or upon the expiration of 30 days after filing, provided the Commissioner has not previously disapproved the Rule in writing.

MARIAN ADGATE  
Corporate Documentation Specialist

Attachment



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June 21, 2019

Honorable Gary D. Anderson  
Commissioner of Insurance  
Massachusetts Division of Insurance  
1000 Washington Street, Suite 810  
Boston, MA 02118

### **Proposed Changes to the Rules of Operation**

Dear Commissioner Anderson:

In accordance with the provisions of Article X of the Plan of Operation, I hereby file, at the direction of the Governing Committee, proposed amendments to the following Rule of Operation:

#### **Rule 2 – Definitions**

Changes are shown by deleting and adding language as reflected on the attached copy. The remainder of the Rule is unchanged.

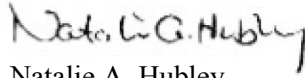
Explanation:

On February 26, 2019, CAR filed with the Division of Insurance, a proposed amendment to Rule 2 – Definitions modifying the definition of “Eligible Risk”. In your correspondence dated March 28, 2019, you disapproved the proposed amendment, citing that the modification made to Rule 2 was inconsistent with G.L. c.175, §113H, CAR’s enabling statute, and does not correspond to the language in Rule 26.A.3. relative to eligibility requirements for placement in the private passenger residual market.

To address Division of Insurance concerns, and as part of CAR’s continuing efforts to ensure consistent underwriting and policy issuance procedures among Servicing Carriers handling commercial residual market business, CAR’s Governing Committee, at its meeting of June 19, 2019, approved a revised modification to Rule 2 – Definitions of CAR’s Rules of Operation. The revision specifies that in order to qualify as an “Eligible Risk,” an applicant must establish “that any person who usually drives the motor vehicle(s) holds or is eligible to obtain a valid operator’s license.” The Governing Committee has concluded that the proposed amendment sets forth clarification of a Person who qualifies for a Motor Vehicle Insurance policy consistent with G.L. c.175, §113H and further ensures a definition of “Eligible Risk” consistent with MAIP Rule 26.A.3.

A copy of the proposed amendment to Rule 2 is attached hereto, and is being furnished to every Member Company, the two associations of insurance producers, and the Public Protection Division of the Office of the Attorney General, as required by Article X of the Plan of Operation.

Respectfully,



Natalie A. Hubley  
President

Attachment: Rule 2 – Definitions

cc: Mary Ellen Thompson – Division of Insurance  
Massachusetts Urban Agents Association, Inc.  
Massachusetts Association of Insurance Agents  
Public Protection Division – Office of the Attorney General

When used in Rules 1 through 20, the following terms shall have the stated meanings:

**CAR** means Commonwealth Automobile Reinsurers.

**COMMERCIAL MOTOR VEHICLE** means any insurable motor vehicle not included in the definition of Private Passenger Motor Vehicle contained in Rule 22.

**COMMISSIONER** means the Commissioner of Insurance of Massachusetts.

**ELIGIBLE RISK** means any Person who qualifies for a Motor Vehicle Insurance policy pursuant to G.L. c. 175, § 113H and which has its Principal Place of Business within the Commonwealth of Massachusetts and which is required by a financial responsibility law as enacted by the legislature of any state or of the United States or by any valid regulation of the Interstate Commerce Commission, United States Department of Transportation, or the Massachusetts Department of Public Utilities to maintain Motor Vehicle Insurance with respect to vehicles owned or leased by it, and registered within or outside of the Commonwealth of Massachusetts provided that the applicant establishes that any person who usually drives the motor vehicle(s) holds or is eligible to obtain a valid operator's license. Ordinances or Bylaws, as enacted by any political subdivision of any state, shall not for the purposes of determining eligibility be considered as financial responsibility laws.

Pursuant to G.L. c. 175, § 113U, a Person seeking to insure Antique Vehicles does not qualify as an Eligible Risk.

**EXCLUSIVE REPRESENTATIVE PRODUCER (ERP)** means a Person licensed as a property and casualty insurance producer pursuant to G.L. c. 175, § 162H through § 162X inclusive, who (a) has a place of business (i) in Massachusetts or (ii) in any state contiguous to Massachusetts, and (b) has been appointed by the Governing Committee or its designee to a Servicing Carrier to immediately certify commercial Motor Vehicle Insurance policies.

**INACTIVE MEMBER** means any Insurer which is licensed to write Motor Vehicle Insurance policies or bonds in Massachusetts, but (a) did not, in fact, issue any commercial Motor Vehicle Insurance policies or bonds in Massachusetts during the most recent calendar year, (b) is not the issuing company on any outstanding commercial Massachusetts Motor Vehicle Insurance policies or bonds, and (c) has no outstanding obligations pursuant to Rule 11.

**INSURER** means any corporation, association, partnership or individual licensed to write Motor Vehicle Insurance in Massachusetts.

**MANUAL OF ADMINISTRATIVE PROCEDURES (MAP)** means the Manual of Administrative Procedures of CAR and does not include the Assigned Risk Company Procedures Manual or the Assigned Risk Producer Procedures Manual.

**MEMBER** means any Insurer which is licensed to write Motor Vehicle Insurance liability policies or bonds in Massachusetts and which is not an Inactive Member. Groups of companies under the same ownership and management will be treated as a single Member. Groups of companies under either the same ownership or management, but not both, may elect to be treated either separately or as a single Member.

**MOTOR VEHICLE INSURANCE** means direct insurance against injury or damage, including the legal liability therefore, arising out of the ownership, operation, maintenance or use of motor vehicles, including but not limited to bodily injury liability insurance, personal injury protection insurance, property damage liability insurance, physical damage insurance, medical payments insurance, uninsured/underinsured motorists insurance and towing and labor insurance.

**PERSON** means a natural person, firm, co-partnership, association, corporation, government or agency thereof.

**PLAN OF OPERATION or PLAN** means the Plan of Operation of CAR prepared pursuant to G.L. c. 175, §113H.

**PRINCIPAL PLACE OF BUSINESS**, as it applies to the definition of an Eligible Risk, is defined as the chief or usual place of business. It is the corporation's nerve center, its center of direction, control, and coordination, the place where the principal officers generally transact business, and the place to which reports are made and from which orders emanate. It is the place where the majority of executive and administrative functions are performed.

The burden of proof with regard to the location of the Principal Place of Business, consistent with the definition as stated above, lies with the applicant who seeks to qualify as an Eligible Risk.

**RULES OF OPERATION or RULES or RULE** means the Rules of Operation of CAR or a Rule of CAR.

**SERVICING CARRIER** means a Member which has been appointed by the Governing Committee, or its designee, as authorized in the Plan and Rules of Operation to issue Motor Vehicle Insurance policies at the request of an Exclusive Representative Producer.