



DANIEL R. JUDSON
PRESIDENT

COMMONWEALTH AUTOMOBILE REINSURERS

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ADDITIONAL INFORMATION

TO MEMBERS OF THE MAIP STEERING COMMITTEE

FOR THE MEETING OF:

Wednesday, January 18, 2012 at 1:00 p.m.

MSC

11.07 Assigned Risk Producer Decertification

Attached for the Committee's consideration are draft procedures for handling in-force assigned business from a decertified Assigned Risk Producer (ARP) as discussed at the November 8, 2011 meeting. (Docket #MSC11.07, Exhibit #3)

MSC

12.04 Compliance with Performance Standards

Attached is an exhibit that summarizes information relating to Assigned Risk Company (ARC) and Assigned Risk Producer (ARP) complaint/violation submissions received January 1, 2011 through December 31, 2011. Staff will provide an overview of this analysis at the meeting. (Docket #MSC12.04, Exhibit #1)

In order to facilitate discussion on the parameters and overall effectiveness of the compliance programs, also attached are Chapter V – ARC Performance Standards of the ARC Procedures Manual and section B. of Chapter II – General Responsibilities of the ARP Procedures Manual. (Docket #MSC12.04, Exhibit #2)

PAMELA WALLACE

Vice President Residual Market Services & Secretary

Attachments

Boston, Massachusetts
January 13, 2012

MEMORANDUM

To: Members of the MAIP Steering Committee

From: Pamela Wallace

Date: January 12, 2012

Re: Agenda Item MSC 11.07 – Assigned Risk Producer Decertification

The following draft proposal has been prepared in response to the Committee's November 8, 2011 discussion on procedures to be followed by an Assigned Risk Company (ARC) when an Assigned Risk Producer (ARP) has been decertified.

Policyholder Notification

Upon notification by CAR that an ARP has been decertified, the ARC will identify all assigned in-force policies written by the ARP. The ARC will advise each policyholder of this action, including the steps to be taken by the policyholder to secure replacement coverage, where to send payments or request policy changes in the interim, and a statement that if no action is taken to replace coverage, the policy will be non-renewed as of its current expiration date. A sample letter is attached.

ARC Processing Procedure

If the ARC receives notification via a 2A Notice of Transfer of Insurer form, the ARC will cancel the policy pro rata.

If no 2A is received, the ARC will issue a non-renewal notice adhering to statutory and regulatory requirements. If no 2A is received and the expiration date is within 60 days of the notice on decertification, the policy will be non-renewed as of its next expiration date.

Commissions

No commission will be paid on any in-force assigned business of a decertified ARP.

Rule Amendments

Rule 29 – Assignment Process

- D. Assignment Period – add language to allow the non-renewal of an assigned policy prior to the expiration of the 3 year assignment period if the ARP has been decertified.

Rule 30 – ARC Requirements

Add a section to address ARC responsibilities as identified above.

ABC Insurance Company

John Doe
123 Main Street
Boston, MA 02110

Re: Main Street Insurance Agency, Inc.
Policy Number: 123-45678-90
Expiration Date: November 1, 2012

Dear Mr. Doe

ABC Insurance Company has been notified by Commonwealth Automobile Reinsurers that the insurance producer representing you on the policy listed above, Main Street Insurance Agency, Inc. has been decertified for failure to comply with the Rules of Operation of the Massachusetts Automobile Insurance Plan (MAIP). As a result, the producer is no longer authorized to represent your automobile insuring interests on this policy which includes the acceptance of premium payments from you.

The purpose of this letter is to request that you select another insurance producer to represent you as the producer of record to service your automobile insurance needs. Please show this letter to your new producer and request that he or she immediately notify ABC Insurance Company of the name of your replacement insurance company and the effective date of your new policy. The Massachusetts Division of Insurance hosts a website (www.agentfinder.doi.state.ma.us) which may be of assistance in your quest to locate a new producer.

If you are unable to find replacement automobile insurance coverage at least 45 days prior to the expiration date as reflected above, your current policy will be non-renewed.

Until then, all policy documents will be mailed directly to you. Until another producer is selected please forward all policy payments directly to:

ABC Insurance Company
P.O. Box 123
Boston, MA 02110

Additionally, for policy changes and inquiries (i.e. billing inquiry, change in address, adding or deleting a vehicle or driver, etc.) call 617-338-1234 or toll free 1-800-123-1234 until another insurance producer is selected.

To report a claim please call 617-338-5678 or 1-800-123-4567

Sincerely,

Robert Smith
ABC Insurance Company

ARC Complaint Submissions for 2011
(submitted by Assigned Risk Producers)
January 1, 2011 through December 31, 2011

	# Submitted	Valid	Not Valid	Pending	Rescinded	Assignments
ARC 1	28	4	23	0	1	
ARC 2	16	2	13	0	1	
ARC 3	7	2	2	1	2	
ARC 4	5	3	2	0	0	
ARC 5	4	0	4	0	0	
ARC 6	3	1	2	0	0	
ARC 7	2	0	2	0	0	
ARC 8	2	1	1	0	0	
ARC 9	2	2	0	0	0	
ARC 10	2	0	1	0	1	
ARC 11	1	0	1	0	0	
ARC 12	1	0	1	0	0	
ARC 13	1	0	1	0	0	
Total ARC Complaint Submissions	74	15	53	1	5	
Total Assignments (ARC 1-13)						65,704
Total Industry Assignments						71,323

ARC Complaint Submission by Reason and Action

Reason	# Submitted	Valid	Not Valid	Pending	Rescinded
Policy Processing Delay	24	7	17	0	0
Return Premium (within 30 days)	2	0	1	1	0
Claims Performance	3	0	3	0	0
Commissioning	6	2	4	0	0
Invalid or Unreasonable Cancellation	10	0	10	0	0
Cancellation Notices (copy to the ARP)	1	0	1	0	0
Reinstatement	2	0	2	0	0
Other	21	6	15	0	0
Rescinded	5	0	0	0	5
Total	74	15	53	1	5

1/11/2012

Rescinded = ARP complaint submission withdrawn

Pending = CAR has not completed its review of the alleged violation

**ARP Violation Submissions for 2011
(submitted by Assigned Risk Companies)
January 1, 2011 through December 31, 2011**

Category	# Submitted	# ARPs	Valid	Not Valid	Pending	Rescinded	Assignments
Total ARP Violations Submitted	1041	246				168	
Total Violations Evaluated	873	194	463	315	95		53,093
ARPs with 10 or more Evaluated Violations	443	19	235	150	58		22,043
ARPs with 9 or fewer Evaluated Violations	430	175	228	165	37		31,050
Total Assignments for 2011 (all ARPs)							71,323

ARP Violation Submissions for 2011 by ARC

Company	Submissions	Valid	Not-Valid	Rescinded	Pending
ARC 1	697	329	247	63	58
ARC 2	213	87	46	53	27
ARC 3	63	25	12	20	6
ARC 4	22	1	2	18	1
ARC 5	16	9	0	5	2
ARC 6	9	1	0	8	0
ARC 7	6	2	4	0	0
ARC 8	3	1	1	1	0
ARC 9	3	3	0	0	0
ARC 10	2	1	1	0	0
ARC 11	2	1	1	0	0
ARC 12	2	1	0	0	1
ARC 13	2	2	0	0	0
ARC 14	1	0	1	0	0
Totals	1041	463	315	168	95

Pending = CAR has not completed its review of the alleged violation

Rescinded = The ARC violation submission withdrawn

Assignments = Number of MAIP assignments produced by the # of ARPs in that category

1/11/2012

**ARP Violation Submissions by Reason
 (submitted by Assigned Risk Companies)
 January 1, 2011 through December 31, 2011**

Violation Reason	# Cited %	
1 Application and/or required down payment submitted more than two business days from date of assignment.	133	10.87%
2 Insufficient down payment submitted as specified in CAR Rule 28.	47	3.84%
3 Applicant not eligible for coverage.	14	1.14%
4 Information on the application for insurance coverage misrepresented.	12	0.98%
5 Application missing documentation as required by CAR Rule 31 (including lack of insured or producer signature(s), Supplemental App., etc.).	9	0.74%
6 Failed to verify that the applicant, at the time of application, owes any mv premium that was due in the preceding 12 months.	23	1.88%
7 Principal operator does not hold a valid license or insufficient license information.	10	0.82%
8 Failed to report all coverages bound and all registrations/titles certified to the ARC within 2 business days after binding cov. or certifying a reg.	18	1.47%
9 Failed to remit payment on a timely basis and/or check or money order not made directly payable to the Assigned Risk Company.	728	59.48%
10 Failed to return uncontested unearned commission	164	13.40%
11 Other	66	5.39%
Total Violation Reasons (one submission may list more than one reason)	1,224	100.00%

Non-Compliance Action - 2011	# ARPs	
Assigned Risk Producer's Placed on Probation	16	
Assigned Risk Producer's Suspended (Reasons:)	44	
Failure to provide a current copy of producer license or license expiration		23
Failure to return uncontested unearned commission		12
Mishandling of insured premium funds or bounced agency checks		4
Falsification of application information		3
Failure to meet non-compliance requirement (no violations while on probation)		2
Assigned Risk Producer's Decertified (Reasons:)	5	
Mishandling of insured premium funds or bounced agency checks/abandon business		2
License Non-renewed		2
Falsification of application information (following suspension)		1

1/11/2012

MAIP	Assigned Risk Company Procedures Manual
Chapter V	Assigned Risk Company Performance Standards
	Compliance
Revision Date	2011.06.15
Page	1 of 2

ARCs must adhere to all practices and procedures as required by the established ARC Performance Standards. The ARC Performance Standards ensure that, within specified timeframes, policies are issued, policy endorsements are processed and return premium checks are issued upon policy cancellation or endorsement. The ARC Performance Standards also insure that commissions are paid to ARPs on a timely basis, copies of cancellation notices and policy changes are furnished to the producer of record, premium disputes are responded to within the established timeframes and that policy cancellations are handled appropriately. For a complete description of the ARC Performance Standards, refer to Exhibit V-1.

1. Non-Compliance Reporting

ARPs will report an ARC's alleged non-compliance with the established ARC Performance Standards to CAR using the ARC Complaints link which is located on the MAIP Producer page of CAR's website. Refer to Exhibits V-2 and V-3. The non-compliance report will be forwarded to the ARC. The ARC will be provided with 5 business days to respond to CAR regarding the complaint. The ARC's response will also be forwarded to the ARP.

2. Violation Review

Once the ARC's response is received, CAR will review the complaint and any supporting documentation to determine the validity of the reported violation and what course of remedial action may be necessary.

If CAR determines the ARP complaint to be valid, or such complaint remains outstanding, CAR shall notify the ARC of the failure to comply with the approved performance standard(s) and request that the ARC institute corrective measures. The ARC will be required to notify CAR of corrective action in writing within 5 business days and may be required to address remedial action in a meeting with staff and/or a committee of CAR.

3. Penalty Provisions

CAR will perform an analysis of each ARC's compliance with both Category I and Category II ARC Performance Standards on a monthly basis. Refer to Exhibit V-1.

MAIP Chapter V Revision Date Page	Assigned Risk Company Procedures Manual Assigned Risk Company Performance Standards Compliance 2011.06.15 2 of 2
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a. Category I

A flat penalty of \$10,000 will be assessed for any validated infraction, or combined infractions.

b. Category II

If the number of validated infractions exceeds 2% of the ARC's in-force MAIP assigned policies based on the current 12-month rolling total of assignments, and there exists a minimum of 10 validated infractions, a \$5,000 penalty will be assessed.

Penalties will continue to accrue for validated infractions of both Category I and Category II ARC Performance Standards newly identified in each month subsequent to the initial assessment, except that the validated infractions relating to the Commissions performance standard will be assessed a Category I penalty for infractions occurring during the 12-month period subsequent to the initial assessment.

Subsequent and repeated non-compliance with the performance standards by an ARC will result in notification of such non-compliance to the Commissioner of Insurance.

ASSIGNED RISK COMPANY PERFORMANCE STANDARDS

Category I

A. Claims Performance

Claim adjustment practices and procedures shall be in accordance with the established Performance Standards and shall correspond with those followed for voluntarily written business.

B. Certificates of Insurance

The Assigned Risk Company (ARC) shall, at the request of the named insured or producer of record, issue certificates of insurance, which shall include SR-22 filings. Such certificates or filings must be provided within four business days after receipt of a request for same.

C. Cancellation – Insufficient Down Payment

The ARC may not cancel a policy for non-payment of premium if such premium deficiency is the result of an insufficient down payment. The ARC shall bill the policyholder for the amount of the deficiency, or otherwise incorporate the amount in future premium installments. If the policyholder fails to pay the minimum amount due, then the ARC may issue a statutory notice of cancellation for non-payment of premium.

D. Cancellation - Misrepresentation

To prevent wrongful cancellation, if during the underwriting process an ARC discovers third-party information that appears inconsistent with the information provided on the application for insurance, the ARC shall 1) initiate an inquiry either directly with the insured or through the producer of record to resolve any factual errors; and 2) obtain the insured's consent before issuing a notice of adjustment to the down payment and/or total premium. If the inquiry is made directly to the applicant the producer of record shall be furnished a copy.

If the resolution of an apparent inconsistency results in a change to information used to calculate premium, the ARC shall charge an appropriate premium based upon the additional or corrected information, and adjust the applicant's next bill accordingly. If however, the applicant is unwilling to consent to the modification, and the ARC has independent evidence that the applicant had the actual intent to deceive or the material misrepresentation increases the ARC's risk of loss, the ARC may cancel the policy as provided by Massachusetts law.

E. Reinstatement

If the reason for a cancellation or non-renewal has been remedied prior to the effective date, then the ARC shall reinstate the policy or issue the renewal.

F. Disputed Premium Recalculation

The ARC shall issue an endorsement recalculating premium within 15 days from the receipt of a determination validating an incorrect premium charge identified as a result of a complaint filed in accordance with ARC Performance Standard K – Premium Disputes.

Category II

G. Policy Issuance

The ARC must issue a policy within 15 calendar days of the receipt of a completed application and any supplemental information needed to verify and appropriately calculate the premium for the coverages requested.

H. Endorsements

Any endorsement to an assigned policy, which includes all information necessary for processing, shall be issued within 15 calendar days of receipt.

I. Return Premiums

Return premium checks must be mailed within 30 calendar days of the effective date of the cancellation or endorsement generating the return.

J. Policy Changes

If policy changes are mailed directly to the insured, copies must be furnished to the Assigned Risk Producer.

K. Premium Disputes

The ARC shall reply within 15 calendar days to letters disputing the premium charged.

L. Commissions

Commission shall be paid no less frequently than monthly and shall be paid within 15 calendar days after the close of the month in which the commission was credited to the producer's account. Each payment will include a commission statement that contains the policy number, named insured, and amount of premium on which the commission has been calculated.

M. Cancellation Notices

A copy of each cancellation notice issued by an ARC shall be furnished to the producer of record.



999 - ANY INSURANCE AGENCY

Submit Complaint

Complete the following information. A copy of this complaint will be sent to CAR and to the Assigned Risk Company (ARC). Response from the ARC must be issued within 5 days of receipt of complaint. The ARC's response will be forwarded to the email supplied below. Once the ARC has responded, CAR will close the complaint and respond with any action or comments required. Multiple complaints may be submitted, each one identified by the complaint date.

Complaint Date

3/4/2011

Assignment

Assigned Risk Company
999- Any Insurance Company

Named Insured (MAIP Policy)
Insured

MAIP Application Certification No.
999-00999-9

Assigned Risk Company Policy No.
12345

Complaint

Select one or more of the following

- Policy Processing Delay** (original policy or subsequent endorsement not issued within 15 calendar days of the receipt of the assigned application or endorsement request, including any supplemental information necessary to process the request, certificate of insurance within 4 business days of request)
- Return Premium** (within the 30 calendar days of the effective date of the cancellation or endorsement that results in a refund)
- Policy Changes** (copies must be furnished to the ARP if furnished to the policy holder)
- Premium Dispute** (failure to respond within 15 days of receipt of the complaint, or failure to recalculate premium)
- Claims Performance** (provide details below)
- Commissioning** (no less frequently than monthly and within 15 days after the close of the month in which the commission is credited to the producer's account)
- Invalid, Improper, or Unreasonable Cancellation** (insufficient down payment, material misrepresentation, provide details below)
- Cancellation Notices** (copies must be furnished to the ARP)
- Reinstatement** (failure to reinstate if the reason for cancellation or non-renewal has been remedied prior to the effective date)
- Other** (note below and provide details of complaint)

Complaint Details

A completed copy of this complaint will be sent to the Assigned Risk Company for which they may submit a response. The email on file for this ARC is company@company.com.

Submit Complaint

CAR	ASSIGNED RISK PRODUCER PROCEDURES MANUAL
Chapter II	General Responsibilities
Revision Date	2010.06.23
Page	14 of 18

2. Category II

If the number of validated infractions exceeds 2% of the ARC's in-force MAIP assigned policies based on the current twelve-month rolling total of assignments, and there exists a minimum of 10 validated infractions, a \$5,000 penalty will be assessed.

Penalties will continue to accrue for validated infractions of both Category I and Category II Performance Standards newly identified in each month subsequent to the initial assessment, except that the validated infractions relating to the Commissions performance standard will be assessed a Category I penalty for infractions occurring during the 12-month period subsequent to the initial assessment.

3. Non-Compliance

Subsequent and repeated non-compliance with the performance standards by an ARC will result in notification of such non-compliance to the Commissioner of Insurance.

- c. A licensed producer aggrieved by any unfair, unreasonable, or improper practice of CAR or another Member with respect to the operation of the MAIP, may request a formal hearing and ruling by the Governing Committee on the alleged practice pursuant to Rule 40 – Hearings, Review of CAR's Rules of Operation. A Request for Review/Relief Form is located in the MAIP Producer Forms section of CAR's website (refer to Exhibit 9).

**B. Producer Violation Reporting, Review and Certification
Suspension**

CAR will assess each ARP's performance on a regular basis based upon validated producer violations reported to CAR by an ARC.

CAR	ASSIGNED RISK PRODUCER PROCEDURES MANUAL
Chapter II	General Responsibilities
Revision Date	2010.06.23
Page	15 of 18

1. Violation Reporting

Assigned Risk Companies report producer performance violations online to CAR using the ARP Violations link which is located on the MAIP Company page of CAR's website. The violation report will be forwarded to both the ARP and to CAR. The ARP has 20 calendar days to respond to CAR regarding the validity of the alleged violation via the ARP Violations link which is located on the MAIP Producer page of CAR's website (refer to Exhibits 10 and 11). A copy of the response will also be forwarded to the ARC. CAR will validate the ARP's response and determine if further action is required.

Violations include failure to comply with the producer requirements specified in Rule 31 – Assigned Risk Producer Requirements of CAR's Rules of Operation as well as those requirements set forth in this Manual and include, but are not limited to, the following:

- a. application and/or required down payment submitted to the ARC more than two business days from the date of assignment,
- b. insufficient down payment submitted (in accordance with Rule 28 – Application Process of CAR's Rules of Operation) including the failure to collect 80% of the calculated MAIP premium or 100% of the assigned ARC's voluntary premium, if known, if the insured's policy had been cancelled for non-payment within the preceding 24 months,
- c. application not eligible for MAIP coverage,
- d. information on the application for insurance coverage is misrepresented,
- e. application missing documentation in accordance with Rule 31 – Assigned Risk Producer Requirements of CAR's Rules of Operation, including lack of insured or producer signatures(s) and Supplemental Application, if required,
- f. failure to verify that the eligible risk has not been and was not, at the time of application, in default in the payment of any motor vehicle premium within the past 24 months,

CAR | **ASSIGNED RISK PRODUCER**
PROCEDURES MANUAL
Chapter II | **General Responsibilities**
Revision Date | **2010.06.23**
Page | **16 of 18**

- g. principal operator does not hold a valid driver's license or insufficient license information provided (i.e. no translation for foreign license, copy of license not forwarded, etc),
- h. failure to report all coverages bound and all registrations/titles certified to the ARC within two business days after binding coverage or certifying a registration,
- i. failure to remit payment on a timely basis to the ARC and/or check or money order not made directly payable to the ARC, and
- j. failure to return uncontested unearned commission.

2. Compliance Review

Once an ARP responds to a reported violation or the 20-calendar day response period has elapsed, CAR will review the documentation provided by the ARC and/or ARP and will determine the validity of the reported violation.

On a monthly basis, CAR shall assess each ARP's performance to determine whether the number of validated violations exceeds 10% of the number of applications submitted in any one month and at least three violations within that month.

CAR will also identify those ARPs that have had validated violations reported in each month of a consecutive three-month period, but the volume of those violations does not exceed the monthly compliance threshold.

3. Warning – Suspension/Remedial Action Required

If the ARP's performance in the latest calendar month exceeds the established tolerances as noted in Section B.2. of this Chapter, CAR will notify the ARP of the failure to comply with the Rules of Operation and request the producer to immediately institute corrective measures.

The producer will be warned that subsequent failure to comply with the standard for each month within the following 90-day period will result in an immediate suspension of the agency certification for a period of not less than one month.

CAR | **ASSIGNED RISK PRODUCER**
PROCEDURES MANUAL
Chapter II | **General Responsibilities**
Revision Date | **2010.06.23**
Page | **17 of 18**

If the ARP's performance over a consecutive three-month period indicates that validated violations exist in each month, but the volume of those violations does not exceed the monthly compliance thresholds specified in Section B.2. of this Chapter, CAR shall notify the ARP of its review findings and require the ARP to address remedial action in a meeting with CAR staff.

4. Non-Compliance

If the ARP remains in compliance for the entire 90-day probation period, the review process will begin again. However, if the ARP exceeds the standard for three or more non-consecutive months in any 12-month period, the result will be an immediate suspension of the agency certification for a period of not less than one month.

Non-compliance during the 90-day probation period will result in the immediate suspension of the agency certification for a period of not less than one month or not more than six months.

5. Immediate Suspension and/or Decertification

CAR will immediately suspend certification in cases deemed to be valid, for a period of not less than one month or not more than six months for any violations involving falsification of information for coverage, misrepresentation of rating information, participation in the false reporting of claims, mishandling of premium funds or failure to return uncontested unearned commission within the specified timeframe. In all cases, the severity of the violations will be taken into consideration. CAR may revoke the certification of the producer if the violations are deemed numerous and/or egregious. Notification of decertification will be provided to all ARCs, the RMV and the Division of Insurance.

Note that failure to renew or maintain an active producer's license will result in the immediate suspension of access to the MAIP Policy Application and possible decertification of the ARP. CAR will reinstate access to the MAIP Policy Application upon receipt of a copy of a valid and current license in good standing.

CAR	ASSIGNED RISK PRODUCER PROCEDURES MANUAL
Chapter II	General Responsibilities
Revision Date	2010.06.23
Page	18 of 18

6. Appeal Process

CAR will notify the ARP of any decision to suspend certification. The ARP will have 30 calendar days to contest the suspension by requesting a review, in accordance with Rule 40 – Hearings, Review of CAR’s Rules of Operation. A request for a review of the suspension will automatically stay the suspension until such time as a review has been held. However, if the suspension or decertification was due to one or more of the violations specified in Section B.5. of this Chapter, the suspension action and/or decertification will remain in effect until such time as it is reversed by a Committee of CAR, the Division of Insurance or a court of competent jurisdiction.

C. Termination/Revocation of Certification Responsibilities

1. Revocation of Assigned Risk Producer Certification

Any licensed property and casualty producer, who within the preceding 24 month period has had an ARP certification revoked, shall be ineligible to place business in the MAIP. Grounds for revoking the certification of an ARP may be found in Section B.5. of this Chapter and in Rule 30 – Assigned Risk Company Responsibilities and Rule 31 – Assigned Risk Producer Responsibilities of CAR’s Rules of Operation.

Those ARPs whose certification is revoked must return all MAIP forms, manuals and stamp(s) to CAR as well as any materials that were supplied by an ARC.

2. Voluntary Termination of an Assigned Risk Producer

An ARP that chooses to terminate his ability to submit business to the MAIP is required to provide 30 days advance written notice to CAR.

The terminated ARP must return all MAIP forms, manuals and certification stamp(s) to CAR as well as any materials supplied by an ARC.



999 - ANY INSURANCE AGENCY, INC

Submit Complaint

Complete the following information. A copy of this complaint will be sent to CAR and to the Assigned Risk Company (ARC). Response from the ARC must be issued within 5 days of receipt of complaint. The ARC's response will be forwarded to the email supplied below. Once the ARC has responded, CAR will close the complaint and respond with any action or comments required. Multiple complaints may be submitted, each one identified by the complaint date.

Complaint Date

6/29/2010

Assignment

Assigned Risk Company

999 - Any Insurance Company

Named Insured (MAIP Policy)

Insured's Name

MAIP Application Certification No.

999-99999-999

Assigned Risk Company Policy No.

Complaint

Select one or more of the following

- Policy Processing Delay** (original policy or subsequent endorsement not issued within 15 calendar days of the receipt of the assigned application or endorsement request, including any supplemental information necessary to process the request, certificate of insurance within 4 business days of request)
- Return Premium** (within the 30 calendar days of the effective date of the cancellation or endorsement that results in a refund)
- Policy Changes** (copies must be furnished to the ARP if furnished to the policy holder)
- Premium Dispute** (failure to respond within 15 days of receipt of the complaint, or failure to recalculate premium)
- Claims Performance** (provide details below)
- Commissioning** (no less frequently than monthly and within 15 days after the close of the month in which the commission is credited to the producer's account)
- Invalid, Improper, or Unreasonable Cancellation** (insufficient down payment, material misrepresentation, provide details below)
- Cancellation Notices** (copies must be furnished to the ARP)
- Reinstatement** (failure to reinstate if the reason for cancellation or non-renewal has been remedied prior to the effective date)
- Other** (note below and provide details of complaint)

Complaint Details

A completed copy of this complaint will be sent to the Assigned Risk Company for which they may submit a response. The email on file for this ARC is company@company.com.

Submit Complaint